

PC Motion #1

General Policy Guidelines

1. Establish triage points after the Council adopts the codes such as quarterly check-ins as problems are found with code language. Problems first are revisited by Planning Commission and then Council.
2. Complete rework of the Plan to Plan including transitions, centers, TODs, and Neighborhood Plans. Following the adoption of CodeNEXT, Land Use Commission revisit the Imagine Austin Centers and Corridors.
3. Process to phase out F25 with stakeholder input regarding items such as Conditional Overlays, TODs, etc. Process to be revisited by Planning Commission and then Council.
4. Prior to the Code being enacted, test and model the code in a wide-range of development scenarios with stakeholder participation, and testing of the financial impacts of the Code, including additional staffing needs, development fee increases, Density Bonus Program resources, and a quantified effect of working in two codes. Staff and consultants to prepare a Report Card of the Planning Commission mapping recommendations. After the Code has been implemented, additional testing to help inform the triage process and measure if the added density is delivering the anticipated affordable units.
5. Entire Code needs to be reviewed by a Master Editor prior to adoption
6. Planning Commission Recommendation is the starting point for Council Review.
7. Land Use Commission's recommendation is shown to Council by each Division. Prior to the Code adoption, Staff to show Council what major elements of Title 25 are not being included in CodeNEXT.
8. Performance mechanisms be identified by PC and staff to show the success and failures of the Code, particularly as it relates to Affordable Housing, displacement, demolition, review times/ permitting, and Imagine Austin Performance Indicators.
9. Staff and Council explore methods to capture the added value of the added density along corridors to help finance transit projects along corridors.

PC Motion #2

Staff to continue to review items and exhibits in all Articles presented in the May 25th Planning Commission CodeNEXT Draft 3 Deliberation Spreadsheet by individual commissioners that were unacted on, and to identify ways to continue to improve Draft 3 for Council's Deliberation. Planning Commission CodeNEXT Draft 3 Deliberation Spreadsheet shall also be given to Council.

PC Motion #3

Where there is conflict between amendments made by the Planning Commission, Staff works to rectify those conflicts utilizing voting data and other related motion to help prioritize the final recommended action, and present them to Council for their action.

PC Motion #4

Recommend all Divisions that do not have comments presented in the May 22nd Planning Commission CodeNEXT Draft 3 Deliberation Spreadsheet.

PC Motion #5

Reduce length of non 23-4 Sections by 30%. Identify a Master Editor who should identify measures in Non 23-4 Articles to reduce extreme length to assist in achieving CodeNEXT goal for code simplicity.

PC Motion #29

Remove Section 23-4C-1030 Common Open Space, eliminating the Common Open Space requirements.

PC Motion #36

100% reduction in parking for properties located within a TOD with the following note about ADA parking: Except for a use occupying a designated historic landmark or an existing building in a designated historic district, off-street motor vehicle parking for persons with disabilities must be provided for a use that occupies 6,000 square feet or more of floor space under the requirements of this paragraph. (a) The following requirements apply if no parking is provided for a use, other than parking for persons with disabilities: (i) the minimum number of accessible parking spaces is calculated by taking 20 percent of the parking required for the use under Appendix A (Tables of Off-Street Parking and Loading Requirements) and using that result to determine the number of accessible spaces required under the Building Code. The accessible spaces may be provided on- or off-site, within 250 feet of the use. (ii) The director may waive or reduce the number of accessible spaces required under Paragraph (2)(a)(i) if the applicant pays a fee in-lieu to be used by the city to construct and maintain accessible parking in the vicinity of the use.

PC Motion #87

As stated in Kenny Exhibit 2 - ADU Bonus Amendments:
Apply Changes to the Citywide Density Bonus Program
Create a Corridor Density Bonus Program
Create an NHCD Review after the implementation of the bonuses
Alter the ADU and R-scale compatibility restrictions

Additional provisions not stated in Kenny Exhibit 2
NHCD review will be 18 months after implementation
LA and RR zones will have a by-right ADU and it will no longer have an affordability requirement
Within 1/8 of a mile of any school, the Corridor ADU Bonus will apply

PC Motion #94

Eliminate all parking minimums by directing staff to get as close to no parking requirements as possible while balancing ADA accessibility, and finding ways for neighborhoods to use residential parking and metered parking as a solution, RPP, and parking benefit districts. Excludes the areas that have already been voted on to have no parking requirements. Methods to be vetted through the Fire Department and Public Safety. Incorporate Vision Zero and Transportation Safety Improvement Program into consideration.

PC Motion #95

Direct Staff to find a solution to preserve parking at specific sites near schools, of any type or district, where parking is an identified problem, utilizing school permit parking systems or other street parking restrictions. Staff to take pedestrian and bicycle safety into consideration.

PC Motion #108

Map Corridor Transitions per modified Kazi Corridor Transitions Directive, as voted on by Planning Commission.

PC Motion #110

Map Imagine Austin Regional Centers as UC-Unlimited, unless affected by compatibility. If affected by compatibility, zone to the highest attainable UC per the limit of the affecting compatibility

Direct staff to look at current projected yield of affordable units for the Regional Centers and ensure that the anticipated yield is not being diminished by the effect of the prescribed zoning

Establish a program for Regional Center that uses opt-in methods similar to UNO, requiring certain development features, such as streetscaping, large-site connectivity, and mobility in order to get maximum heights.

PC Motion #111

Map the areas adjacent to Imagine Austin corridors using the new zoning tools in CodeNEXT such that compatibility is not triggered on at least 90% of the properties along these corridors

Revise the language to set a goal of 90% while also taking into account lot size, localized flooding, existing infrastructure capabilities, connectivity/ access to corridor, and gentrification in applying the zones

See Kenny Exhibit 1 - Eastern Crescent Gentrification Protection Zone (Page 28 of 29)

For the areas identified in the Eastern Crescent Gentrification Protection Zone, establish a new zone of RM1C that features the base zoning of R2C with a 15 foot front setback, and the bonus entitlements of RM2A. This would be the default zone for behind corridors in the related map.

Map the areas adjacent to core transit corridors and future core transit corridors using the new zoning tools in CodeNEXT such that compatibility is not triggered on at least 90% of the properties along these corridors

Revise the language to set a goal of 90% while also taking into account lot size, localized flooding, existing infrastructure capabilities, connectivity/ access to corridor, and gentrification in applying the zones

See Kenny Exhibit 1 - Eastern Crescent Gentrification Protection Zone (Page 28 of 29)

For the areas identified in the Eastern Crescent Gentrification Protection Zone, establish a new zone of RM1C that features the base zoning of R2C with a 15 foot front setback, and the bonus entitlements of RM2A. This would be the default zone for behind corridors in the related map.

Exempt TODs from compatibility entirely, by either mapping or text as determined by Staff
Direct Staff to review policy on exempting TODs from compatibility

PC Motion #112

Approve Downtown Map with Amendments and make no further motions regarding Downtown.

PC Motion #113

Amend Imagine Austin to reclassify South Park Meadows as a Regional Center. Map South Park Meadows as UC.

PC Motion #114

Approve Regional Centers with Amendments

PC Motion #116

Staff to establish a 3-year sunset process for F25, including community participation - particularly those areas that have already completed a small area planning process. New zones or subzones may need to be created to accommodate the sunset process. For areas scheduled to undergo a Small Area Plan, F25 will get phased out as part of that review if it has not already been phased out.

ZAP Motion #1

Revisions to Adoption Process

- Extend the timeline to give citizens, commissions, and council more time to review, revise, digest, and provide meaningful feedback on the full content of CodeNEXT
- CodeNEXT mapping should be completed only after the 5 year Imagine Austin plan has been updated with input from all stakeholders, including an intentional focus on seeking input from communities of color
- Do not release a city-wide map for Draft 3 of CodeNEXT. Instead, targeted areas of the city should be released to test desired vs. real-world impact

ZAP Motion #2

Revisions to Elements of the Code

- Align CodeNEXT to Imagine Austin whenever possible, especially mapping and small area plans
- Insure that all affordable housing programs work consistently and are available in all zoning categories; PUDs should participate too; tie entitlements to inclusion of affordable housing; require more 2 and 3 bedroom units for families; lower MFI thresholds

- Increase pedestrian-friendly policies
- Incorporate recommendations regarding flooding
- ADUs - allow in all housing form zones; fast-track and eliminate fees for small (>500 sq. ft.) and income restricted units; Allow units up to 1,100 square feet based on lot size
- Address compatibility standards, setbacks and step-back provisions
- Scrutinize and revise elements related to appeals, notifications, increased administrative authority, and the broadening of special exemptions as a means of ensuring the public can provide input throughout the process
- Remove references to “high” and “low opportunity zones” in CodeNEXT -- every neighborhood in our city should be a high opportunity zone

ZAP Motion #3

Revisions to Code Organization/Complexity

- Ensure progression and cumulative nature of zoning categories
- Reduce number of zoning categories to reduce complexity (e.g. Cincinnati)
- Reduce overall text length to average of other similarly-sized city
- Re-organize structure to match that of other cities (e.g. Portland, Chicago, Cincinnati)
- Increase use of tables, illustrations and flowcharts whenever feasible to improve readability
- Chapters: Incorporate transportation, separate environmental, separate technical; administrative procedures and definitions at the back; group together all procedures for appeals
- Professional editing to address inconsistencies, missing/unclear definitions

ZAP Motion #4

A walkable streetscape may no longer be required. Setbacks along core transit corridors and urban roadways will be narrower and will be a patchwork of depths. Current code under Subchapter E requires a 15' setback consisting of street trees and/or benches on core transit corridors and a similar 12' wide streetscape for urban roadways. This pedestrian- friendly design is eliminated in CodeNEXT and replaced with inconsistent and smaller setbacks determined by zoning, not by street type. For example, Mixed-Use (MU) can have a 10 ft. setback and be adjacent to Main Street (MS) that requires a 5' setback. In addition, “private frontage” is allowed to substitute for the required setback in MU and MS.

ZAP Motion #5

The Zoning and Platting Commission recommends that the sidewalk requirements not be relegated to the Transportation Criteria Manual. Current sidewalk requirements included in Subchapter E of the current land development code should be retained and included in CodeNext.

ZAP Motion #7

CodeNEXT keeps Austin's outer neighborhoods auto-centric instead of facilitating a transformation to pedestrian-friendly. The Zoning and Platting Commission is acutely aware of the exponential job and housing growth occurring in these exurbia regions yet CodeNEXT ignores this.

ZAP Motion #8

CodeNEXT guarantees that the outer core will continue to develop with a suburban model by zoning neighborhoods in these areas for only one unit per lot. The Zoning and Platting Commission recommends that CodeNEXT encourage housing density, diverse housing options, and more ambitious housing target for outer core neighborhoods particularly those near the Domain, Lakeline Station and job centers and ensure complete communities throughout Austin

ZAP Motion #14

CodeNEXT avoids the simple fixes that could rectify problems with our current code. For example, single-family use now triggers compatibility restrictions that occasionally lead to unpredictable results. Instead of completely changing the compatibility requirements, it could be changed to where zoning only, and not use, triggers compatibility

ZAP Motion #15

The Zoning and Platting Commission recommends that CodeNEXT be ordered for user convenience.

- Additional illustrations including flowcharts should be added to improve user understanding
- The zoning code should be first and the general requirements chapter which enumerates all fees should be next.
- Environmental regulations should continue to retain its own chapter.
- Transportation can be incorporated within the infrastructure chapter
- Administration, procedures, and definitions should be at the back and
- The technical codes can be in a separate document

ZAP Motion #16

Sections of the proposed code are still missing which means that the land use commissions have to make a recommendation without all necessary information. Missing segments include Compliance and Monitoring Criteria for the Affordable Housing Bonus Program, the Signage chapter, the Technical Codes chapter and the Transportation Criteria Manual

ZAP Motion #17

CodeNEXT is full of inconsistencies and errors. For example,

- Mixed Use (MU), the front setback is shown as 10' according to Fig. 23-4D-4050 (1) yet tables indicate a 25' setback from the ROW. This figure is also used to show the required setback for Main Street (MS), which has tables depicting a 5' setback.
- Text references to 23-9E-5050 regarding sidewalk requirements, but the correct section is 23-9E-2020 that has no requirements.
- Text references over and over to building standards in 23-4E-8030, a section that has no standards.
- Text reference to 23-4D-2220 on Cottage Courts, a section that doesn't exist. The correct reference is to 23-4E-8050.
- Error of 1150 sq. ft. for ADUs
- Zone R1B says 45' width on 4D-2 pg 23 and 50' width on 4D-2 pg 24.
- Zone R3C says 0.4 FAR on duplex but 23-4E-6160 allows duplexes up to 0.57 FAR in R3C.
- R1-R3 say AHBP is not applicable, but 23-3E-5010 gives affordable housing incentives in those zones.
- MS zones Table 23-4D-5030A seems to prohibit restaurants < 2500 sq. ft. as this is not listed as an allowed use.
- Telecommunication uses are permitted by right in all zones except Lake Austin (LA) in 23-4D-2030 but restricted by 23-4E-6370 from House Form Zones.

ZAP Motion #19

The Zoning and Platting Commission recommends that a professional editor be hired to correct all typos, incorrect references, inconsistencies, and missing or unclear definitions.

ZAP Motion #25

It is clear from other growing cities and our own that a bigger, denser city increases the rate of innovation, start-ups, and productivity, but it is also accompanied by increased gentrification, income inequality and segregation, and housing costs. One remedy to the downside of growth is to require developers to provide affordable housing in exchange for the additional height and density that they want

ZAP Motion #33

CodeNEXT has increased impediments to public participation, diminished transparency given enhanced administrative authority, and suggested the creation of bodies with no clear policy reason for doing so. The Zoning and Platting Commission is concerned about the following issues:

- Less notification;
- Shorter time periods and impediments to appeals;
- Changes to determination of standing to appeal;
- Minor Use Adjustments;
- Minor Use Permits (MUP); and the
- Broadening of special exemptions.

ZAP Motion #34

Texas Local Government Code § 211.004 requires that zoning regulations be adopted in accordance with the adopted comprehensive plan. Austin City Charter Article X, § 6 also requires that all land development regulations, including zoning and map, shall be consistent with the comprehensive plan, element or portion thereof as adopted. The CodeNEXT draft 2 map does not follow the Growth Concept Map's directive to focus development along the corridors and activity centers. Imagine Austin directs that where a small area plan exists, recommendations should be consistent with text of the plan and its Future Land Use Map. The CodeNEXT draft 2 map disregards both the text and the map of Austin's comprehensive plan. CodeNEXT is meant to be an implementation process, not a new planning exercise. The Zoning and Platting Commission recommends that future mapping be consistent with directives and maps in Imagine Austin, including the small area plans.

ZAP Motion #35

Austin has a pattern of permitting more intense zoning categories in east Austin than elsewhere. Austin is one of the most economically segregated metro area in the country, with rich and poor residents increasingly separating out into low- and high-income neighborhoods, and a smaller and smaller share of residents living in mixed-income communities. CodeNEXT proposes 17 different house form zones allowing for different entitlements. This provides a clear path to worsen income segregation. The CodeNEXT draft 2 map is almost entirely R1 on the west side of Austin while only the central and east Austin neighborhoods are zoned R3. This inequitable treatment will further exacerbate income segregation. The Zoning and Platting Commission recommends that the number of house form zones be drastically reduced, that all areas of the city be mapped equitably, and that CodeNEXT encourage mixed-income communities by using one set of zoning standards in

the entire city. We also recommend that subdivision rules be changed to promote a mix of lot sizes.

ZAP Motion #36

Neighborhoods identified in the report from the Mayor's Task Force on Institutional Racism should not be upzoned and compatibility protections should be restored for properties with current single-family zoning. The Save Our Springs (SOS) ordinance passed in 1992 in the city to protect environmentally sensitive parts of Austin from overdevelopment. An unintended consequence is that the ordinance encouraged overdevelopment into east Austin. The Zoning served and Platting commission recommends that CodeNext provide enhanced environmental protections in central and east Austin to treat different areas of the city equitably and to avoid the negative consequences of impervious cover and overdevelopment in all areas of the city.

ZAP Motion #37

The primary purpose of CodeNEXT is to implement the Imagine Austin Comprehensive Plan (IACP). Given that the IACP is currently undergoing a five-year major update, we recommend mapping after Imagine Austin completes this update.

ZAP Motion #38

Communities of color have been largely left out of the IACP and CodeNEXT processes and as a result, neither the IACP nor CodeNEXT equitably represent their voices, values, interests and needs

ZAP Motion #39

The City's Equity Office should review the IACP and CodeNEXT and provide feedback and recommendations to the Planning Commission, the Zoning and Platting Commission, staff and Council

ZAP Motion #40

The Zoning and Platting Commission recommends that references to "high-" and "low-opportunity" areas be removed from CodeNEXT because every area should be a high opportunity area

ZAP Motion #41

The Zoning and Platting Commission recommends that the third CodeNext draft be released without a city-wide map. Consistent with the Opticos contract, only a sample of areas (including an activity corridor, a commercial area, an older neighborhood, a newer

neighborhood, and area around a school, and the University Neighborhood Overlay) should be tested, so that we can ensure that the zones work as expected.

ZAP Motion #42

The Zoning and Platting Commission recommends that when the entire city is mapped, upfront increases in entitlements (FAR, height, or number of units) should be avoided. Upfront upzoning gives away the only leverage we have for creating income restricted affordable housing, can jeopardize the fabric of Austin's neighborhoods, and is near impossible to remedy when mistakes are made.

HLC Motion #1

Opposition to CodeNEXT Draft 3 and recommendations for priority changes.

HLC Motion #6

Many errors and contradictions remain within and between sections that should be corrected.

EC Motion #1

City staff work to align and clearly demonstrate connections and synergies between the following recent or ongoing planning projects and tools to maximize the collective impact of City initiatives: the Austin Water Forward Plan, the Integrated Green Infrastructure Plan, the proposed Functional Green Program, the City's Resilience Plan, the Long Range Parks Plan, the Equity Tool, Project Connect, the Strategic Mobility Plan, and the Austin Strategic Housing Blueprint.

EC Motion #2

City staff work to align and clearly demonstrate connections and synergies between the following plans and tools and the final draft of the Land Development Code: the Austin Water Forward Plan, the Integrated Green Infrastructure Plan, the proposed Functional Green Program, the City's Resilience Plan, the Long Range Parks Plan, the Equity Tool, Project Connect, the Strategic Mobility Plan, and the Austin Strategic Housing Blueprint.

EC Motion #4

Staffing analysis in conjunction with CodeNEXT.

EC Motion #15

Staff draft provisions to address sound and light pollution and weigh safety considerations.

Introduction



PC Motion #6

Recommend approval of Chapter 23-1 with amendments previously approved and the following additional changes:

1. Where Article 23-1 conflicts with current policy related to the Neighborhood Planning Contact Team, corrections to those discrepancies are made.

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Article 23-1A: General Provisions

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Division 23-1A-1: Title, Purpose, and Scope

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23-1A-1010 Title and Citation

- (A) Title 23 of the Austin City Code shall be known and may be cited as the “Land Development Code.”
- (B) The following short-form citations may also be used:
 - (1) Within the Land Development Code:
 - (a) The code as a whole may be referred to as “this Title;” and
 - (b) Chapters, articles, divisions, or sections may be cited by number and title; for example, Article 23-1A (General Provisions) or Section 23-1A-1010 (Title and Citation).
 - (2) When referring to chapters, articles, divisions, or sections of this Title in other documents, the citation “LDC” may be used where appropriate; for example, “LDC Article 23-1A (General Provisions)” or “LDC Section 23-1A-1010 (Title and Citation).”

23-1A-1020 Purpose

- (A) The purpose of the Land Development Code is to protect and promote public health, safety, and general welfare through standards and procedures for the use and development of land which are consistent with and implement the city's Comprehensive Plan.
- (B) To further the purpose declared in Subsection (A), this Title establishes procedures and standards to:
 - (1) Ensure notification of land use activities, consistent with state law, and ensure an equitable opportunity for public participation through an open and transparent decision-making process;
 - (2) Coordinate the review of development applications and ensure an efficient process for obtaining required approvals;
 - (3) Classify land within the city's zoning jurisdiction into base zones and overlay zones to regulate the use and development of land in a manner that:
 - (a) Provides adequate light, air, access, and open space;
 - (b) Facilitates a mix of uses, maximizes multi-modal movement of people and goods, and promotes compact, connected, pedestrian-oriented development;

- (c) Preserves historic resources and neighborhood character;
 - (d) Maintains a compatible scale of development;
 - (e) Minimizes traffic congestion, promotes transportation safety, and enhances the streetscape and pedestrian environment;
 - (f) Encourages development in areas with adequate public services and amenities;
 - (g) Provides opportunities for diverse housing types across all income levels throughout all parts of the city; and
 - (h) Protects and integrates green infrastructure;
- (4) Provide for the safe, orderly, and healthful subdivision of land, in a manner consistent with the goals and policies of the Comprehensive Plan; and
 - (5) Protect lives, property, and the natural environment by reducing the effects of fire, traffic, floods, erosion, water pollution, and other natural and man-made hazards.

23-1A-1030 Scope and Effect

(A) **Scope of Land Development Code**

- (1) **General.** The Land Development Code applies to all use, development, and division of land and shall be construed broadly to accomplish this scope. Specific standards apply within the limited purpose, full purpose, and extraterritorial jurisdiction as provided under Section 23-2A-1020 (Applicability of Land Development Code) and elsewhere throughout this Title.
- (2) **City of Austin.** The city shall comply with the standards of this Title, except where a chapter, article, division, or section specifically exempts the city.
- (3) **Other Governmental Entities**
 - (a) The Land Development Code applies to other governmental entities to the extent authorized by law, including Section 211.013 of the Texas Local Government Code and as provided under this Title.
 - (b) To encourage inter-governmental cooperation and facilitate sound regional planning, exempt governmental entities are encouraged to submit development applications for their projects under this Title for review by appropriate City departments.
 - (c) When a federal or state agency voluntarily submits an application for review by the City of Austin, the appropriate director is authorized to waive city fees to the extent that state or federal law prohibits the agency from paying local application or permitting fees.

(B) Effect of Land Development Code

- (1) **Violations Prohibited.** It shall be unlawful, and a violation of this Title, for any person to establish, construct, reconstruct, alter, replace, maintain, use, or occupy any structure or land, except **in compliance with** the standards of this Title and any conditions to development approval imposed in accordance with this Title. Enforcement of this Title, and of conditions imposed under this Title, is authorized under Article 23-2J (Enforcement) and by Chapter 1-3 (Citation Program) and Section 1-1-99 (Offenses; General Penalty).
 - (2) **Administrative and Quasi-Judicial Actions**
 - (a) No development approval, including a land use permit, building permit, site development permit, or variance may be issued by the City unless the proposed development complies with all applicable provisions of this Title.
 - (b) No reduction in the requirements of this Title may be approved unless specifically authorized by this Title. Procedures for requesting variances, administrative modifications, and other reductions or modifications to a regulation or standard are established in Article 23-2F (Quasi-Judicial and Administrative Relief), Article 23-4B (Zoning Administration and Procedures), and other provisions of this Title.
 - (3) **Legislative Actions.** An amendment to the text or map adopted in this Title, as well as any figure, table, or picture **included herein**, may only be adopted by the city council **consistent with the applicable procedures established in Division 23-2E-1 (Text Amendments) or Division 23-4B-3 (Zoning Map Designations and Amendments).**
 - (4) **Requirements Cumulative and Non-Exclusive.** The requirements of this Title are cumulative of requirements imposed by other laws. Approvals required by this Title are in addition to other permits that may be required by the City or by any other governmental agency or special district.
- (C) **Matters Not Affected or Superseded.** The adoption of this Title shall not affect or supersede the following classes of ordinances, rights, or obligations:
- (1) **Any right or liability established, accrued, or incurred under any provision of the predecessor Land Development Code, in effect prior to the effective date of this Title, and any action or proceeding brought for the enforcement of such right or liability; and**
 - (2) **Any offence or act committed or done in violation of the predecessor Land Development Code, in effect prior to the effective date of this Title, including any penalty, punishment, or forfeiture which may result therefrom.**

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Division 23-1A-2: Authority

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23-1A-2010 Scope of Municipal Authority

- (A) **Adoption.** This Title is adopted pursuant to and in furtherance of:
- (1) The Austin City Charter; and
 - (2) The following statutes and laws of the State of Texas:
 - (a) Local Government Code, including Chapters 41, 42, 43, 54, 211, 212, 213, 214, 215, 216, 217, 241, 242, 243, and 431;
 - (b) Property Code Sec. 12.002 (Subdivision Plat; Penalty) et seq.;
 - (c) Water Code;
 - (d) Flood Control and Insurance Act, Sections 16.311 through 16.317;
 - (e) Vernon's Annotated Civil Statutes, Chapter 13 (Home Rule) and Article 1175; and
 - (f) Such other statutes and laws enabling the exercise of the municipal police power.
- (B) **Implementation and Execution**
- (1) Authority under the Land Development Code shall be vested in and delegated to the officials and decision-makers designated in Article 23-1B (Responsibility for Administration), consistent with the City Charter, the Austin City Code, and the constitution and laws of the State of Texas.
 - (2) This authority is supplemental to any other authority lawfully conferred upon City officials and decision-makers. The omission of a citation in this Title to any authority conferred upon officials and decision-makers by the City Charter, City Code, or the constitution or laws of the State of Texas, shall not be construed as limiting the actions of the officials and decision-makers taken in accordance with such authority.

23-1A-2020 Implied Authority

City officials and decision-makers shall have all implied authority necessary to carry out the duties and responsibilities expressly delegated by this Title, to the extent the implied authority is not in conflict with expressly delegated authority.

23-1A-2030 Limitations on Authority

- (A) **Effect of Land Development Code.** The standards and procedures applicable to development of property within the City limits and within the City's extraterritorial jurisdiction are those established by the Land Development Code, which shall control in the event of conflict with a representation made by a City official or employee, either orally or in writing, summarizing, paraphrasing, or otherwise interpreting the standards and procedures applicable to development.
- (B) **Representations Concerning Future Administrative, Quasi-Judicial, or Legislative Actions**
- (1) **Administrative Actions.** No City official, whether an employee of the City, a member of the city council, or an appointed board or commission member, shall have the authority to make binding representations or commitments to a person concerning the likelihood of an outcome of that official's decision or the decision of the council or an appointed board or commission on any development application or petition that has yet to be filed or is pending before the City for decision.
- (2) **Legislative Actions.** No City official, whether an employee of the City or a member of the council or an appointed board or commission, shall have the authority to make binding representations to any person concerning the likelihood:
- (a) That a change in any legislative classification or a change in the text of this Land Development Code as applied to a specific tract of land will be granted;
 - (b) That an existing legislative classification or text provision will remain in effect; or
 - (c) That any petition for relief will be granted or denied.
- (3) **Unauthorized Representations.** No person is entitled to rely upon a representation made by a City official or employee in contravention of this subsection. Any such representation shall be deemed in violation of City policy and non-binding on the City in any respect. No subsequent decision of the City shall be considered a ratification of any representation made in contravention of this subsection.
- (C) **No Effect of City Decisions on Liability**
- (1) The City's approval of a development application under the Land Development Code does not guarantee or assure that development of the property in accordance with this Title will prevent or mitigate harm to adjoining property.
- (2) A person who undertakes development activities may not rely on the City's approval of a development application as assurance that the development activities will not result in harm to adjoining property.
- (3) The regulations contained in the Land Development Code constitute an exercise of the City's governmental authority, and approval of a development application shall not give rise to any liability on the part of the City or its officers, agents, and employees.

(D) Unauthorized Waivers

- (1) No City official, employee, board, or commission of the City, or the council, shall have authority to waive any requirement of this Title, except as expressly authorized by this Title.
- (2) Any attempt to waive a requirement of this Title in violation of this subsection shall be deemed void. A development application or legislative decision that is approved on the basis of an unauthorized waiver of this Title may be suspended or revoked consistent with the standards of Article 23-2J (Enforcement).

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Division 23-1A-3: Classification of Applications and Decisions

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23-1A-3010 Purpose

To aid in better understanding the City of Austin’s process for land use planning and development, this division provides an overview of the different categories of decisions and applications established by the Land Development Code. Detailed requirements for different categories of decisions are established in Section 23-2A-1030 (Overview of Legislative and Administrative Approvals) and other provisions of this Title.

23-1A-3020 Classification of Applications and Decisions

(A) Legislative Decisions

(1) General Characteristics

- (a) Legislative decisions are decisions that establish or change the City's policies and rules governing the use and development of land. They involve the exercise of broad discretion and are typically based on general considerations of public policy, including furthering the goals of the Comprehensive Plan or preserving public health, safety, and welfare.
- (b) Only the council may approve legislative decisions, which cannot be appealed or varied and may only be amended or repealed by the council. The council may not delegate its authority to make a legislative decision and, in general, cannot be required to take legislative action. The council must, at a minimum, hold a public hearing and receive a report from the Land Use Commission before making a legislative decision except where otherwise authorized by this Title.

(2) Types of Legislative Decisions. Examples of legislative decisions include:

- (a) Adopting or amending the text of this Title;
- (b) Adopting the City’s official zoning map and approving applications to change the zoning classification of individual properties, commonly referred to as a “rezoning” or “zoning amendment”;
- (c) Approving a development agreement or a land use plan in the City's extraterritorial jurisdiction; and
- (d) Amending the Comprehensive Plan, including a neighborhood plan or other small area plan.

(B) Quasi-Judicial Decisions

(1) General Characteristics

- (a) A quasi-judicial decision is a City decision that:
 - (i) Applies discretionary approval criteria to a development application;
 - (ii) Adjudicates the rights of individual parties under this Title; or
 - (iii) Decides an appeal of an administrative decision.
- (b) A quasi-judicial decision involves the application of standards and criteria to particular facts. In most cases, a quasi-judicial decision requires a public hearing and may require findings in support of the decision. Depending on the nature of the application, a quasi-judicial decision may require the exercise of considerable discretion on the part of the decision maker and approval may be subject to conditions.
- (c) A quasi-judicial decision is usually made by an appointed board or commission, but in some cases, may be subject to final approval by the council or may be delegated to the city manager. Members of a decision-making body may be required to refrain from discussing matters subject to a quasi-judicial decision outside of a public meeting regarding the matter, if expressly provided by this Title.

(2) Types of Quasi-Judicial Decisions. Examples of quasi-judicial decisions include:

- (a) A decision by the Board of Adjustment on an application for a zoning variance under Section 23-4B-4020 (Variances) or special exception under Division 23-2F-1 (Variances and Special Exceptions);
- (b) A decision by the Land Use Commission on an application for an environmental variance under Section 23-3D-2060 (Land Use Commission Variances) or a conditional use permit under Section 23-4B-1020 (Conditional Use Permit);
- (c) A decision by a board or commission, or by the council, on an administrative appeal under Article 23-2I (Appeals); and
- (d) A decision by the council under Division 23-2F-3 (Limited Adjustments) or Section 23-2K-2040 (Project Consent Agreements).

(C) Administrative Decisions

(1) General Characteristics

- (a) An administrative decision is a decision by the City that applies specific standards or requirements of this Title or other applicable law to the review of a development application. Most administrative decisions require technical expertise and professional judgment, but generally require the exercise of limited discretion.
- (b) The authority to make administrative decisions is delegated to City departments and to boards and commissions, as provided in Article 23-1B (Responsibility for Administration). A public hearing is required for an administrative decision by a board or commission.

(2) **Types of Administrative Decisions.** Examples of administrative decisions include:

- (a) A decision by the director on an application for:
 - (i) A site plan or minor use permit;
 - (ii) A minor adjustment or alternative equivalent compliance; or
 - (iii) A vested rights petition;
- (b) A decision by the building official or director on an application for:
 - (i) A building permit or a trade permit; or
 - (ii) A certificate of occupancy or compliance; and
- (c) A decision by the Land Use Commission on an application for a preliminary plan or final plat; and
- (d) A revision or correction to a pending application.

23-1A-3030 Rules Governing Decisions

- (A) **Order of Process.** If proposed development requires more than one application under this Title, an applicant must obtain the approvals in the order listed in Section 23-2A-2010 (Order of Process).
- (B) **Burden to Show Compliance.** An applicant requesting approval of a development application must demonstrate that the application meets all applicable requirements.
- (C) **Revised Development Application.** An amended or revised development application is classified the same as the initial application and is reviewed according to the same level of discretion as the initial application.
- (D) **Advisory Decisions.** If a board or commission makes a recommendation on a decision to be made by the city council, the board or commission may recommend approval of the application as proposed, approval in a modified form, or recommend denial of the application.

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Division 23-1A-4: Consistency with Comprehensive Plan

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23-1A-4010 Consistency with the Comprehensive Plan

- (A) **Consistency Requirement.** Legislative, quasi-judicial, and administrative decisions under this Title must be consistent with the Comprehensive Plan, as required by the City Charter, Article X, Section 6 (Legal Effect of Comprehensive Plan).
- (B) **Consistency Standards for City Decisions**
 - (1) **Legislative Decisions**
 - (a) A legislative decision is consistent with the Comprehensive Plan if:
 - (i) For a map amendment, the nature and location of allowed land uses is consistent with the growth concept map and, if applicable, a land use map included in an adopted small area plan; and
 - (ii) The text of this Title, and any amendment to this Title, is consistent with the goals and policies of the Comprehensive Plan and, if applicable, an adopted small area plan.
 - (b) The city council has sole authority to determine the consistency of a legislative decision, including an amendment to this Title, with the Comprehensive Plan and to balance competing goals and policies. A decision by the council to approve a legislative decision shall constitute a finding that the decision is consistent with the Comprehensive Plan.
 - (2) **Administrative and Quasi-Judicial Decisions.** An administrative or quasi-judicial decision is consistent with the Comprehensive Plan if the decision conforms to the applicable regulations of this Title, which implement the Comprehensive Plan.

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Division 23-1A-5: Rules of Interpretation

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23-1A-5010 Purpose and Applicability

This division establishes rules for interpretation to be used in applying the requirements of this Title. The rules of interpretation established in Chapter 1-1 (General Provisions) of the City Code also apply, but a rule established in this division prevails in the event of a conflict.

23-1A-5020 Rules of Interpretation

- (A) **Cumulative Requirements.** The requirements of this Title are cumulative of requirements imposed by other ordinances, rules, and regulations. If there is a conflict, the requirements of this Title shall control over requirements imposed by other ordinances, rules, regulations, or requirements imposed under private covenants, restrictions, or easements.
- (B) **Internal Consistency**
 - (1) Wherever possible, this Title shall be interpreted in a manner that gives effect to all provisions and avoids rendering any provision of this Title in conflict with one or more other provisions.
 - (2) If two or more provisions of this Title appear to conflict, that they cannot all be applied, the director shall resolve the conflict using the following rules:
 - (a) If the provisions relate to the same standard, such as setbacks, height, or impervious cover, the more restrictive standard applies and controls over a less restrictive standard; or
 - (b) If a general provision conflicts with a provision that is more specific to a particular development application or category of development, then the specific provision applies and controls over the general provision unless the general provision was adopted more recently and the manifest intent of the city council was for the general provision to apply.
- (C) **Incomplete Provisions.** If a standard or procedure of this Title is incomplete when applied to a particular development application or activity, the director shall supplement the standard or procedure with whatever additional standards or procedures of this Title are necessary to give effect to the incomplete provision.
- (D) **Purpose Statements.** Purpose and intent statements used in this Title are not substantive requirements, but provide context to aid in understanding the legislative intent behind substantive requirements.

(E) **Headings, Text, and Illustrations**

- (1) In the event of a conflict or inconsistency between the text of this Title and any heading, caption, figure, illustration, or map, the text shall control.
- (2) Unless otherwise indicated, illustrations in this Title are provided for purposes of describing, clarifying, or providing examples. Illustrations are not to scale and do not replace, limit, or expand the meaning of the text.

(F) **Lists and Examples.** Unless otherwise indicated, a list of items or examples that is prefaced by the terms “for example,” “including,” or “such as”:

- (1) Is intended to provide examples and is not an exhaustive list of all possibilities; and
- (2) Does not imply an order of priority or chronology.

(G) **Computation of Time.** Where this Title specifies the time in which an act is to be done, the time is computed by:

- (1) Excluding the first day and including the last day.
- (2) If a deadline or required date of action falls on a Saturday, Sunday, or City holiday, the deadline or required date of action is the next day that is not a Saturday, Sunday, or City holiday.
- (3) Reference to days is to **calendar days** unless otherwise indicated.

23-1A-5030 **Continuation of Prior Ordinances**

(A) A provision of this Title that is substantially similar to a provision of the Land Development Code in effect prior to adoption of this Title:

- (1) Is a continuation and restatement of the prior provision;
- (2) Shall not be deemed a new enactment; and
- (3) Continues in effect, without interruption, from the date the earlier provision was adopted.

(B) By way of example, and not exclusion, Article 23-3D (Water Quality) and Chapter 23-4 (Zoning Code) include continuations of earlier provisions as described in Subsection (A).

Article 23-1B: Responsibility for Administration

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Division 23-1B-1: City Council

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23-1B-1010 City Council

- (A) **Legislative Decisions.** The council has final authority over all legislative decisions authorized by this Title, including:
 - (1) Amendments to this Title, as provided in Division 23-2E-1 (Text Amendments);
 - (2) Amendments to the Comprehensive Plan and adopted small area plans, under Division 23-2E-2 (Plan and Map Amendments);
 - (3) Amendments to the zoning map, under Division 23-4B-3 (Zoning Map Designations and Amendments);
 - (4) Approval of a development agreement under Division 23-2L-1 (Interlocal Development Agreements) or Division 23-2L-2 (General Development Agreements);
 - (5) Approval of an ordinance annexing land into the City, for full or limited purposes; and
 - (6) Approval of an annual fee schedule fixing the amount of all fees required under this Title.
- (B) **Quasi-Judicial Decisions.** The council has authority to make certain quasi-judicial decisions, including:
 - (1) Deciding an appeal of the Land Use Commission's decision on a conditional use permit, as authorized under Article 23-4B (Zoning Administration and Procedures);
 - (2) Approval of a Project Consent Agreement under Section 23-2K-2040 (Project Consent Agreements); and
 - (3) Approval of a limited adjustment under Article 23-2F (Quasi-Judicial and Administrative Relief).
- (C) **Other Council Actions.** The council may take other actions relating to the regulation of land use and development, except where prohibited by this Title, the City Charter, or State law.

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Division 23-1B-2: Boards and Commissions

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23-1B-2010 Purpose and Applicability

- (A) This division establishes and continues boards and commissions that are required to take final actions on behalf of the City under this Title. Chapter 2-1, Article 2 (Boards) of the City Code establishes other boards and commissions that perform advisory functions and make recommendations concerning matters covered by this Title, including the Downtown Commission, the Historic Landmark Commission, and the Environmental Commission.
- (B) The specific functions of boards and commissions established under this division are summarized in Section 23-2A-1030 (Overview of Legislative and Administrative Approvals) and established in other provisions of this Title.
- (C) The boards and commissions established in this division are subject to Chapter 2-1, Article 1 (General Provisions) of the City Code, which establishes general requirements for membership, structure, and operation of City boards and commissions. In the event of a conflict between Chapter 2-1 of the City Code and this Title, the requirements of this Title control.

23-1B-2020 Board of Adjustment

- (A) **Enabling Authority.** The Board of Adjustment is a quasi-judicial body that derives its authority from Chapter 211 (Municipal Zoning Authority) of the Texas Local Government Code and this Title. The city council established the Board, by ordinance, on July 17, 1941.
- (B) **Composition and Structure**
 - (1) The board shall be composed of 11 members, with each member appointed to serve a two-year term. A board member may be removed for cause by the council, upon written charges and after a public hearing.
 - (2) The council may appoint alternate board members to serve when a regular member is absent. An alternate board member is appointed to a two-year term.
- (C) **Duties and Functions.** The board shall hear and decide:
 - (1) A request for a variance from a zoning standard or for approval of a special exception, under Chapter 23-4 (Zoning Code);
 - (2) An appeal of an administrative action filed by an aggrieved party under Article 23-21 (Appeals);

- (3) A request for a variance from the standards of airport zoning standards under the Texas Local Government Code, Section 241.034; and
- (4) A request for a variance from a requirement of Chapter 23-8 (Signage).

(D) Voting Requirements

- (1) Each case before the board must be heard by at least 75 percent of the board members. The concurring vote of 75 percent of the board members is necessary to:
 - (a) Reverse an administrative decision on an appeal under Article 23-2I (Appeals);
 - (b) Decide in favor of an applicant on a matter on which the board is required to pass under Chapter 23-4 (Zoning); or
 - (c) Authorize a variation from the terms of Chapter 23-4 (Zoning).
- (2) The super majority required under Subsection (D)(1) shall be calculated based on the full eleven-member board, minus any vacant positions or legally disqualified board members.

(E) Meetings

- (1) The board shall hold meetings at the call of the chairperson and at other times as requested by the board or required under its bylaws.
- (2) The board shall prepare minutes of its proceedings. The minutes shall include the vote of each member on each item before the board and shall state if a member is absent or fails to vote on an item.
- (3) The chairperson, or the acting chairperson in the absence of the chairperson, may administer oaths and compel the attendance of witnesses.

- (F) Rules of Procedure.** The board may adopt rules of procedure, which must be consistent with this Title and state law.

- (G) Appeal to District Court.** A decision by the Board constitutes a final City decision and is appealable to District Court as provided in Chapter 211 (Municipal Zoning Authority) of the Texas Local Government Code.

23-1B-2030 Land Use Commission

- (A) Designated Commission.** The Land Use Commission is comprised of the Planning Commission and the Zoning Platting Commission. Where this Title requires the Land Use Commission to take action on an application, the responsible director shall assign the application to the Planning Commission or the Zoning and Platting Commission consistent with the requirements of this subsection.

- (1) The Planning Commission shall act as the Land Use Commission on applications related to property within:
 - (a) The boundaries of a neighborhood plan adopted by the city council as a component of the Comprehensive Plan;
 - (b) The former Robert Mueller Municipal Airport site;

- (c) The Old Enfield Neighborhood Planning Area; or
 - (d) The boundaries of a proposed neighborhood plan that the council:
 - (i) Has directed the Planning Commission to consider; and
 - (ii) Has not rejected or withdrawn.
- (2) The Zoning and Platting Commission shall act as the Land Use Commission on applications related to property not with an area identified under Subsection (B)(1).
- (B) **Duties and Functions.** The Land Use Commission performs administrative, quasi-judicial, and legislative functions as provided under Section 23-2A-1030 (Overview of Legislative and Administrative Approvals) and established in other provisions in this Title. The Commission's primary functions include the following final decisions, appealable decisions, and recommendations:
 - (1) **Final Decisions.** A decision by the Land Use Commission on the following applications is final and not subject to appeal:
 - (a) A preliminary plan, final plat, or subdivision variance under Chapter 23-5 (Subdivision);
 - (b) An environmental variance under Article 23-3D (Water Quality);
 - (c) An appeal of an enforcement decision under Article 23-2J (Enforcement);
 - (d) An appeal of a minor use permit under Section 23-4B-1030 (Minor Use Permit); and
 - (e) Heritage tree variance under Section 23-3C-3040 (Heritage Tree Variance).
 - (2) **Appealable Decisions.** A decision by the Land Use Commission on an application for a conditional use permit under Section 23-4B-1020 (Conditional Use Permit) or an environmental variance associated with a preliminary plan is appealable to the city council.
 - (3) **Recommendations.** The Land Use Commission makes recommendations to the council on:
 - (a) An amendment to the text of this Title initiated under Division 23-2E-1 (Text Amendments);
 - (b) An amendment to the zoning map under Division 23-4B-3 (Zoning Map Designations and Amendments); and
 - (c) An amendment to the Comprehensive Plan or a small area plan under Division 23-2E-2 (Plan and Map Amendments).
- (C) **Joint Committees.** The Planning Commission and the Zoning and Platting Commission may coordinate, exchange information, and make recommendations through participation in the joint committees established under Section 2-1-205 (Small Area Planning Joint Committee) and Section 2-1-207 (Codes and Ordinances Joint Committee).

23-1B-2040 Planning Commission

- (A) **Enabling Authority.** The Planning Commission derives its authority from Chapters 211 and 212 of the Texas Local Government Code, Article X of the City Charter, and this Title. The city council established the Planning Commission on January 25, 1945, by passage of Ordinance No. 450125.
- (B) **Composition and Structure**
- (1) The Planning Commission is composed of 13 members appointed to the Commission by the city council.
 - (2) The city manager, the chairperson of the Board of Adjustment, the Public Works Director, and the President of the Board of Trustees of the Austin Independent School District (AISD) shall serve as ex officio members.
 - (3) The President of the AISD Board of Trustees may designate, in writing, a member of the Board of Trustees or an employee of AISD to represent the district at meetings of the Planning Commission. The AISD representative may participate in discussion of agenda items subject to approval by the Chair of the Commission and in compliance with such rules as the Commission considers appropriate.
- (C) **Duties and Functions.** The Planning Commission shall:
- (1) Act as the Land Use Commission on development applications, as required under Section 23-1B-2030 (Land Use Commission);
 - (2) Make recommendations on proposed amendments to this Title under Division 23-2E-1 (Text Amendments); and
 - (3) Perform other functions as required or authorized by this Title or the City Charter and as assigned by the city council.

23-1B-2050 Technical Code Boards

(A) Duties and Functions

- (1) This section establishes the following boards:
 - (a) Building and Fire Code Board of Appeals
 - (b) Electric Board; and
 - (c) Mechanical and Plumbing Board
- (2) Each board is authorized, consistent with the requirements of this section, to provide recommendations regarding amendments and updates to the technical codes adopted in Chapter 23-11 (Technical Codes) and to hear appeals concerning decisions by the building official relating to the administration, enforcement, and interpretation of the technical codes.
- (3) The technical code boards are established under the City's home rule powers, consistent with nationally promulgated technical codes adopted under Chapter 23-11 (Technical Codes).

(B) Composition and Structure. Each technical code board shall consist of 11 members, as provided under Section 2-1-4 (Size and Appointment) of the City Code, and shall comply with all applicable requirements of Chapter 201, Article 1 (General Provisions) of the City Code and the additional requirements of this subsection.

(1) Building and Fire Code Board of Appeals

- (a) Members of the Building and Fire Code Board of Appeals should be qualified by experience and training to consider matter related to construction and fire prevention. **Membership of the Board should include one or more of the following:**
 - (i) **an architect;**
 - (ii) **a civil or structural engineer;**
 - (iii) **a firefighter or fire protection engineer;**
 - (iv) **a general contractor; and**
 - (v) **a resident of the City with other relevant background or experience.**
- (b) The Board's duties and functions, as established in Subsection (C), apply to all administrative decisions and proposed amendments to Division 23-11B-1 (Building Code), Division 23-11B-7 (Fire Code), and Division 23-11B-11 (Residential Code).

(2) Electric Board

- (a) Members of the Electric Board should be qualified by experience and training to consider matters related to the installation, maintenance, and design of electrical systems. The Board should, to the extent possible, include an active licensed master electrician, an active licensed journeyman electrician, and an electrical engineer.
- (b) The Board's duties and functions, as established in Subsection (C), apply to all administrative decisions and proposed amendments to Division 23-11B-4 (Electrical Code).

(3) Mechanical and Plumbing Board

- (a) Members of the Mechanical and Plumbing Board should be qualified by experience and training to consider matters related to the installation and design of mechanical and plumbing systems. **Membership of the Board should include one or more of the following:**
 - (i) **a licensed air conditioning contractor;**
 - (ii) **a licensed master plumber;**
 - (iii) **a representative of a natural gas utility;**
 - (iv) **a professional engineer; and**
 - (v) **a resident of the City with other relevant background or experience.**
- (b) The Board's duties and functions, as established in Subsection (C), apply to all administrative decisions and proposed amendments to Division 23-11B-5 (Mechanical Code) and Division 23-11B-6 (Plumbing Code).

(C) Duties and Functions. Each of the technical code boards shall perform the duties and functions described in this subsection.

(1) Administrative Appeals

- (a) A technical code board shall hear and decide appeals of orders, decisions, or determinations made by the building official relating to the technical codes within that board's jurisdiction, as established under Subsection (B).
- (b) Appeals filed with a technical code board are subject to the procedures established in Article 23-2I (Appeals). A board may not waive a code requirement in deciding an appeal.
- (c) A decision by a technical code board may be appealed to the city council, consistent with the requirements and procedures established in Article 23-2I (Appeals).

(2) Amendments to the Technical Codes. Following initiation by the building official of a proposed amendment or update to the technical codes, a technical code board shall conduct a public hearing and provide a recommendation to the city council as required under Division 23-2E-1 (Text Amendments).

- (D) Staff Support for Technical Code Boards.** The building official shall serve as an ex officio member of each technical code board established in this section and shall serve as secretary to the board.

23-1B-2060 Zoning and Platting Commission

- (A) **Enabling Authority.** The Zoning and Platting Commission derives its authority from Chapters 211 and 212 of the Texas Local Government Code and this Title.
- (B) **Structure and Composition.** The Commission shall consist of 11 members, as provided under Section 2-1-4 (Size and Appointment) of the City Code, and shall comply with all applicable standards of Chapter 2-1, Article 1 (General Provisions).
- (C) **Duties and Functions.** The Commission shall act as the Land Use Commission under Section 23-1B-2030 (Land Use Commission) and perform such other duties as may be assigned by the city council.

Division 23-1B-3: Administration

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23-1B-3010 Purpose and Applicability

This division designates City department directors with authority and responsibility to carry out functions established under this Title and generally defines the scope of a responsible director's authority with respect to the administration and enforcement of this Title.

23-1B-3020 Overview of City Departments

- (A) **Responsible Director.** The term "director" or "responsible director," as used in this Title, refers to the department director designated by the city manager to carry out particular functions.
- (B) **Designated Departments and Areas of Expertise**
- (1) Table (A) (Designated Department and Areas of Expertise):
- (a) Identifies City departments that are designated throughout this Title, with responsibility to administer and enforce particular provisions of the Land Development Code; and
 - (b) Describes, in general terms, each department's primary areas of expertise or responsibility in relation to the administration and enforcement of this Title.
- (2) Table (A) (Designated Departments and Areas of Expertise) is provided for informational purposes only, as an aid to understanding the primary roles of City departments in administering this Title. The city manager may delegate functions within and between departments as needed, which shall control over responsibilities and functions described in Table (A).

Table 23-1B-3020(A) Designated Department and Areas of Expertise

City Department	Director Title	Principal Areas and Responsibilities
Planning & Zoning Department	Planning Director	Reviews, processes, and recommends: <ul style="list-style-type: none">• Applications for rezones or original zoning for consideration by the council; and• Amendments to this Title or the Comprehensive Plan initiated by the council or Planning Commission.

Table 23-1B-3020(A) Designated Department and Areas of Expertise		
City Department	Director Title	Principal Areas and Responsibilities
Development Services Department	Development Services Director	<ul style="list-style-type: none"> •Reviews, inspects, processes, and takes final action on site plans, minor use permits, and other applications related to land development. •Coordinates interdepartmental review of development applications with Watershed Protection, Transportation, Parks and Recreation, and other City departments with specific areas of expertise. •Presents development actions to the Land Use Commission, including subdivision plats. •Initiates enforcement action, where appropriate, through suspension, revocation, and other administrative orders authorized by this Title.
		City Arborist
		<ul style="list-style-type: none"> •Administers and enforces urban forest protection regulations.
		Building Official <ul style="list-style-type: none"> •Reviews, inspects, processes, and takes final action on applications for building permits and other construction approvals. •Administers and enforces technical codes and related health standards.
Watershed Protection Department	Watershed Director	<ul style="list-style-type: none"> •Reviews development applications for compliance with specific environmental and drainage standards. •Administers and enforces Water Quality and Pollution Control standards.
		Environmental Officer
		<ul style="list-style-type: none"> •Appointed by the city manager to advise and direct City staff to ensure that environmental protection is the highest priority in public and private development. •Receives and investigates complaints on environmental issues from citizens and reports findings to the city manager. •Delivers an annual report on the City's environment to the city manager and city council in April.
Parks & Recreation Department	Parks Director	<ul style="list-style-type: none"> •Reviews development applications for compliance with parkland dedication and open space standards.
Austin Transportation Department	Transportation Director	<ul style="list-style-type: none"> •Reviews development applications for compliance with transportation regulations, including requirements for traffic safety and transportation impact analyses.
Neighborhood Housing & Community Development	Housing Director	<ul style="list-style-type: none"> •Administers and enforces the Affordable Housing Density Bonus Program and other City initiatives related to affordable housing.

Table 23-1B-3020(A) Designated Department and Areas of Expertise

City Department	Director Title	Principal Areas and Responsibilities
Code Department	Code Director	•Enforces City land use and development standards for developments not subject to an active building permit or other development approval.
Public Works Department	Public Works Director	• Reviews and approves public infrastructure, including sidewalks, streets, and other improvements and dedications affecting public right-of-way.
Aviation Department	Aviation Director	•Reviews and approves development applications within airport overlay zones and applications for heliports and helicopter operations.
Austin Water Department	Water Director	•Reviews applications for service extension requests and development approvals requiring connection to the City's water and wastewater system.

23-1B-3030 Authority of Responsible Director

(A) General Authority and Delegation

- (1) A responsible director designated by the city manager under Section 23-1B-3020 (Overview of City Departments) shall have the authority to take any action that is necessary to administer and enforce the applicable provisions of this Title, except where an action is otherwise prohibited by this Title or state law.
- (2) As provided in Section 1-1-14 (Designation of City Official or Department Director), a responsible director may delegate authority under this Title to department staff or, with approval of the city manager, to staff in another department. City staff acting under delegated authority shall have the same authority as the responsible director.

(B) Specific Authority and Responsibility. In addition to the general authority delegated under Subsection (A), a responsible director shall have authority to take the following actions consistent with the standards of this Title:

- (1) Accept and process development applications;
- (2) Review and make recommendations concerning an application;
- (3) Seek advice from other City departments and coordinate recommendations from departments concerning the application;
- (4) Approve or disapprove an application, including any administrative modifications or waivers authorized by this Title;
- (5) Coordinate review by City boards and commissions or by the council, if required;
- (6) Prepare staff reports and recommendations advising City boards and commissions, or the council, regarding any application presented for review or final action;
- (7) Adopt policies, procedures, or interpretations to aid in the administration and enforcement of this Title; and
- (8) Initiate enforcement actions seeking to obtain compliance with the requirements and standards of this Title, including any conditions imposed on a permit or other development approval.

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23-1B-4010 Neighborhood Plan Contact Team

- (A) The Planning Director shall initiate the formation of a Neighborhood Plan Contact Team.
- (B) The Neighborhood Plan Contact Team shall to the greatest extent practicable include at least one representative from each of the following groups within a neighborhood plan area:
 - (1) Property owners;
 - (2) Residential renters;
 - (3) Business owners; and
 - (4) Neighborhood organization members owning or renting property within the neighborhood plan area.
- (C) Representatives shall to the greatest extent possible be drawn from the group of persons involved in the development of the neighborhood plan.
- (D) The Neighborhood Plan Contact Team shall annually submit a list of its officers and members, including individual contact information and applicable membership category under Subsection (B) to the director.
- (E) The Neighborhood Plan Contact Team shall submit new bylaws or changes in existing bylaws to the director. The bylaws shall address roles and responsibilities, boundaries, membership, decision-making, meetings and meeting notification, officers and duties, amendments to the bylaws, finances, and conflicts of interest. The bylaws shall be consistent with the standardized bylaws template and instructions provided by the director.
- (F) Before the date on which the Planning Commission is scheduled to consider a proposed neighborhood plan amendment, the Neighborhood Plan Contact Team may submit a letter to the director stating its recommendation on the proposed amendment. The Neighborhood Plan Contact Team shall also identify any conflict of interest as defined in the bylaws of the Neighborhood Plan Contact Team.

(G) Neighborhood Plan Contact Teams shall have dispute resolution as follows:

- (1) **Filing Complaints.** A person who meets the membership requirements described under Subsection (B) and believes that the Neighborhood Plan Contact Team has violated the provisions of this section may file a request with the director to have the director investigate and mediate the complaint. The complaints shall be in writing and shall identify the Neighborhood Plan Contact Team alleged to be violating the provisions of this section. All complaints must be filed within 45 days following the occurrence of an alleged violation.
- (2) **Investigation.** The director shall review with the charging party the allegations contained within the complaint and, if warranted based on the standards of this Chapter, shall conduct a prompt and full investigation of the matter stated in the complaint through interviews with the charging party, contact team officers, and through review of all available documentation. The director shall determine, in writing, whether dispute resolution is warranted within 14 days of receiving a complaint and shall render a written report identifying issues to be addressed through dispute resolution within 28 days of receiving the complaint.
- (3) **Informal Dispute Resolution.** If after investigation it is determined that there is reasonable cause to believe that dispute resolution is warranted, the director shall endeavor to eliminate any such alleged violations by informal methods of conference, conciliation, and persuasion. All informal dispute resolution and determinations of the director must be completed within 30 days after the director provides the written report.
- (4) **Formal Dispute Resolution.** If, after determining that there is reasonable cause to believe that dispute resolution is warranted, and the director is unable to secure from the respondent an acceptable conciliation agreement, the director shall present a report to the Planning Commission within 30 days of completing the informal dispute resolution. If, after review of the report the Planning Commission agrees with the report of the director, the Planning Commission may recommend a more formal mediation or dispute resolution process. The Planning Commission shall set a deadline for the completion of formal mediation based on the complexity and circumstances of a specific case and shall identify a neutral third party to conduct the dispute resolution process.
- (5) **Remedy**
 - (a) In cases where the informal and formal dispute resolution processes initiated by the City are unable to secure from the respondent an acceptable conciliation agreement, the Planning Commission may recommend that the director and the City discontinue recognition of the Neighborhood Plan Contact Team under the provisions of this Chapter until a conciliation agreement acceptable to the Planning Commission is reached.
 - (b) If the City discontinues recognition of a Neighborhood Plan Contact Team, special designation of the organization as a Neighborhood Plan Contact Team will be removed from the City of Austin Community Registry, the Neighborhood Plan Contact Team will no longer be granted the authority to initiate neighborhood plan amendments, and the Neighborhood Plan Contact Team will no longer have access to any special resources or authority through the City based on its status as a Neighborhood Plan Contact Team.

- (c) If recognition of a Neighborhood Plan Contact Team is discontinued for more than six months, the director may take action to initiate a new Neighborhood Plan Contact Team for the planning area under Subsections (A) - (C). In the event that the director takes action to initiate a new Neighborhood Plan Contact Team, the initial officers of the new Neighborhood Plan Contact Team may not have served as officers of the previous Neighborhood Plan Contact Team at the time when recognition was discontinued.
- (6) **Appeal.** Charging parties and respondents may appeal the determination of the director and of the Planning Commission in compliance with this subsection to the council. Actions that are appealable include the director's determination that dispute resolution is warranted; findings/determinations that come out of the informal dispute resolution process; and discontinuation of recognition of a Neighborhood Plan Contact Team.

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Administration and Procedures



PC Motion #8

Recommend approval of Chapter 23-2 with amendments previously approved.

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Article 23-2A: Purpose and Applicability

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23-2A-1010 Purpose

- (A) The purpose of this chapter is to:
 - (1) Establish common procedures and requirements for the review and submittal of applications for development permits and other determinations authorized by the Land Development Code; and
 - (2) Provide an overview of the different categories of development permits and other administrative decisions established under this Title.
- (B) More detailed requirements for particular categories of permits and approvals may be found throughout this Title, as well as in administrative rules and policy memos adopted by the responsible director(s) listed in Table 23-1B-3020(A) (Designated Department and Areas of Expertise).

23-2A-1020 Applicability of Land Development Code

- (A) Except as otherwise provided in this Title, the regulations of the Land Development Code apply as follows:
 - (1) Within the full-purpose jurisdiction, land use and development must comply with all applicable regulations of this Title;
 - (2) Within the extraterritorial jurisdiction, development must comply with all applicable regulations of:
 - (a) Chapter 23-2 (Administration and Procedures);
 - (b) Chapter 23-6 (Site Plan);
 - (c) Chapter 23-8 (Signage);
 - (d) Chapter 23-12 (Airport Hazard);
 - (e) Chapter 23-5 (Subdivision), Article 23-3D (Water Quality), and Chapter 23-10 (Infrastructure), except that Title 30 (Austin/Travis County Subdivision Regulations) applies to the portion of the City's extraterritorial jurisdiction located within Travis County;
 - (f) Division 23-11B-4 (Electrical Code), for a structure served by the City's electric utility; and
 - (g) Division 23-11B-6 (Plumbing Code), for a structure's water supply system(s) or waste water system when the system is served by the City's water utility.

- (3) Within the limited-purpose jurisdiction, land use and development must comply with Chapter 23-4 (Zoning), [Chapter 23-11 \(Technical Codes\)](#), Article 23-3C (Urban Forest Protection and Replenishment), and [other](#) regulations applicable in the extraterritorial jurisdiction under Subsection (A)(2);
- (4) Within the full or limited-purpose jurisdiction, land use and development must comply with regulations applied through a development agreement approved under Division 23-2L-2 (General Development Agreements), in accordance with Texas Local Government Code, Chapters 43 and 212, Subchapter G.

23-2A-1030 Overview of Legislative and Administrative Approvals

- (A) **Purpose and Applicability.** This section provides an overview of the most significant categories of legislative, quasi-judicial, and administrative approvals established by the Land Development Code. Other approvals may also be required by this Title, depending on the nature and extent of a proposed development. For a description of the characteristics and features of the different categories of decisions, see Section 23-1A-3020 (Classification of Applications and Decisions).
- (B) **Overview Table.** Table (A) (Overview of Legislative, Quasi-Judicial, and Administrative Approvals) is intended as an aid for using the Land Development Code, but is superseded by other provisions of this Title in the event of a conflict:

Table 23-2A-1030(A) Overview of Legislative, Quasi-Judicial, and Administrative Approvals				
Approval Type	Section, Article or Division	Advisory Body	Decision Maker	Appeal
Legislative Decisions	Establishing Citywide Policies & Requirements for Land Use and Development			
Map amendments (rezones)	Division 23-4B-3	Land Use Commission	City Council	—
Text code amendments	Division 23-2E-1	Planning Commission	City Council	—
Comprehensive plan amendments	Section 23-2E-2020	Planning Commission	City Council	—
Neighborhood plan amendments	Section 23-2E-2030	Planning Commission	City Council	—

Table 23-2A-1030(A) Overview of Legislative, Quasi-Judicial, and Administrative Approvals				
Approval Type	Section, Article or Division	Advisory Body	Decision Maker	Appeal
Quasi-Judicial Decisions	Determining Rights or Entitlements Based on Evidentiary Hearing and Discretionary Application or Interpretation of Code Requirements			
Zoning variance	Section 23-4B-4020	—	Board of Adjustment	District Court
Special exception	Division 23-4B-4	Planning Director	Board of Adjustment	District Court
Administrative appeals re: zoning regulations	Article 23-2I	Planning Director	Board of Adjustment	District Court
Environmental variance	Section 23-3D-2060	Environmental Commission	Land Use Commission	—
Heritage tree variance	Section 23-3C-3040	Environmental Commission	Land Use Commission	—
Subdivision variance	Section 23-5B-1050	Development Services Director	Land Use Commission	—
Final plat or preliminary plan	Article 23-5B	Development Services Director	Land Use Commission	—
Conditional use permit	Section 23-4B-1020	Development Services Director	Land Use Commission	City Council
Administrative appeals re: technical codes	Article 23-2I	Building Official	Building & Fire Code Board of Appeals	—
Limited adjustment	Division 23-2F-3	Watershed Director	City Council	—
Project consent agreement	Section 23-2K-2040	Development Services Director	City Council	—
Administrative Decisions	Decisions Applying & Interpreting the Land Development Code			
General Land Use Decisions				
Nonconforming determination	Article 23-2G	—	Planning Director	Board of Adjustment
Code interpretations	Section 23-4B-2020 Section 23-1B-2050	—	Planning Director	Board of Adjustment or Technical Code Board
Use determination	Section 23-4B-2030	—	Planning Director	Board of Adjustment
Decisions Relating to Site Plan Applications and Special Approvals				
Alternative equivalent compliance	Section 23-2F-2040	—	Development Services Director	—
Administrative environmental variance	Section 23-3D-2070	—	Watershed Director	—
Minor use permit	Section 23-4B-1030	—	Development Services Director	Land Use Commission
Temporary use permit	Section 23-4B-1050	—	Development Services Director	—

Table 23-2A-1030(A) Overview of Legislative, Quasi-Judicial, and Administrative Approvals

Approval Type	Section, Article or Division	Advisory Body	Decision Maker	Appeal
Site plan review	Chapter 23-6	—	Development Services Director	—
Sign permit	23-8A-2010	—	Director or Building Official	—
Decisions Regarding Applicability of Regulations				
Residential exemption (amnesty)	Section 23-2F-2020	—	Development Services Director	—
Vested rights approvals	Division 23-2K-2	—	Development Services Director	—
Land status determination	Section 23-5A-1040	—	Development Services Director	—
Subdivision Decisions				
Preliminary plan	Division 23-5B-2	Development Services Director	Land Use Commission	—
Final plat	Division 23-5B-3	Development Services Director	Land Use Commission	—
Minor plats	Section 23-5B-3060	—	Development Services Director	—
Subdivision construction plan	Division 23-5B-5	—	Development Services Director	—
Construction Level Permit Decisions				
Building permit	Article 23-7B	—	Development Services Director	—
Certificate of occupancy or compliance	Division 23-2H-4	—	Development Services Director	—
Trade permits		—	Development Services Director	Building & Fire Code Board of Appeals
Demolition permit	Article 23-7B	—	Building Official	—
Relocation permit	Article 23-7C	—	Building Official	—

¹Note Regarding Code Interpretations: A code interpretation is appealable to the Board of Adjustment under Section 23-4B-2020 (Code Interpretations) if the interpretation is related to zoning regulations and to a technical code boards under Section 23-1B-2050 (Technical Code Boards) if it is related to the Building Code, Residential Code, or other technical codes. An appeal of a code interpretation associated with a site plan or building permit suspends the site plan or building permit, as provided by Section 23-2I-1040 (Development Not Permitted During Appeal), pending resolution of the appeal.

Division 23-2A-2: Development Process

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23-2A-2010 Order of Process

(A) If a proposed development requires two or more applications under this Title, higher level applications must be decided before subordinate applications. Applications should be decided in the following general sequence:

- (1) Legislative approvals:
 - (a) Comprehensive Plan amendments; and
 - (b) Zoning or rezoning.
- (2) Quasi-judicial approvals:
 - (a) Zoning variances and special exceptions;
 - (b) Environmental variances;
 - (c) Subdivisions and subdivision variances; and
 - (d) Conditional use permits.
- (3) Administrative approvals:
 - (a) Minor use permit;
 - (b) Site plan;
 - (c) Building permits; and
 - (d) Certificates of occupancy.

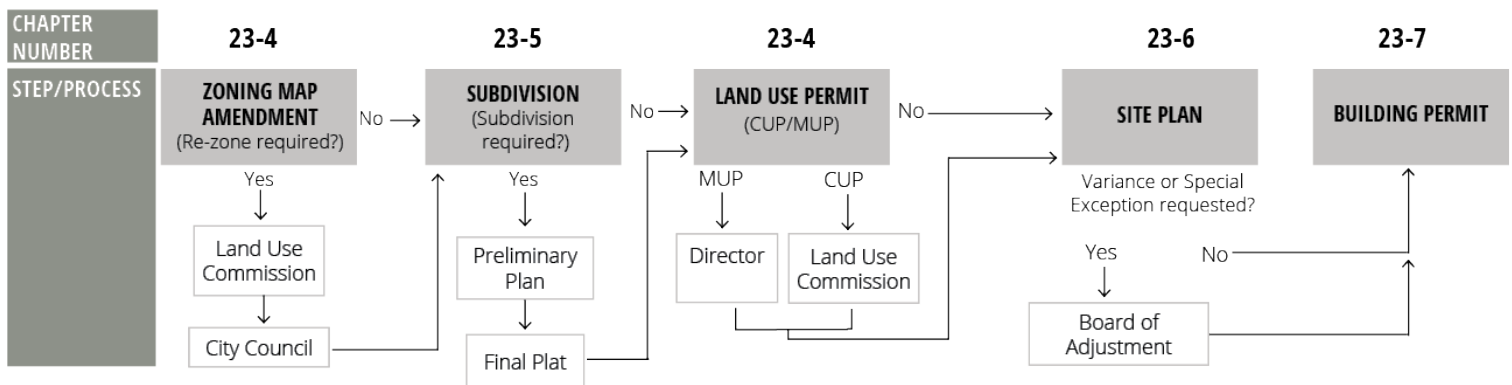


Figure 23-2A-2010 (1) Order of Process

- (B) The responsible director shall assign priority to different types of applications within the same category and require an applicant to obtain higher level approvals before subordinate approvals. If an application is not listed in Subsection (A), the responsible director shall prioritize it one level below the application type to which it is most similar.

23-2A-2020 Concurrent Applications

If a proposed development requires two or more approvals under this Title, the responsible director may allow the applications to be submitted concurrently. If concurrent applications are accepted, the applications may only be approved in the order established under Section 23-2A-2010 (Order of Process).

23-2A-2030 Transfer of Approval

A permit or other land use approval issued under this Title applies to the property or structure for which the approval was issued. If a permit or other approval issued under this Title grants a right to use or develop property, that right transfers with ownership of the land or structure for which the approval was issued.

Division 23-2A-3: Residential Development Regulations

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23-2A-3010 Purpose and Applicability

- (A) This division establishes regulations and review procedures applicable under the Land Development Code to residential development of one to six units per lot.
- (B) The purpose of this division is to account for the varying capacity of residential projects to comply with this Title and to better tailor applicable regulations and permit review procedures to a project's overall scale and intensity. Recognizing the impacts that regulation may have on housing construction, this division seeks to moderate the costs associated with small-to-medium scale residential projects while still achieving meaningful compliance with this Title.

23-2A-3020 Review Authority

- (A) Authority and responsibility for implementing this division is delegated to the Development Services Director, which is referred to in this division as "the director." However, the city manager may from time to time delegate particular functions under this division to one or more other City departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this division, the director may consult with other City departments regarding issues within that department's area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).

23-2A-3030 One to Two-Unit Residential

(A) Applicability

- (1) This section specifies regulations and review procedures applicable under this Title to development associated with one to two residential units located on a lot or legal tract, except that development of a boat dock, bulkhead, or shoreline access is subject to all applicable requirements of this Title.
- (2) Residential development that is subject to this section is exempt from regulations of this Title not specified under this section.

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- (B) **Review Procedures.** An application to construct or expand one to two residential units under this section:
- (1) Is exempt from the requirement for site plan approval under Section 23-6A-2010 (Site Plan Exemptions), but must include a residential development plan sufficient to determine whether the proposed development complies with the regulations in Subsection (C); and
 - (2) **Must include an** engineer's certification that any changes to existing drainage patterns will not negatively impact adjacent property if the **application proposes** construction, **modification to a roofline**, or expansion **that**:
 - (a) Is more than 300 square feet; and
 - (b) **Is located**:
 - (i) **on an unplatted tract**;
 - (ii) **within a residential subdivision approved without plan or**
 - (iii) **within a residential subdivision approved with a preliminary plan and final platted more than five years before the building permit application was submitted.**
- (C) **Development Regulations.** An application **to construct or expand one to two residential units** must comply with the requirements described in this subsection.
- (1) **Zoning.** Compliance with all applicable regulations of Chapter 23-4 (Zoning Code) or a separately adopted zoning ordinance is required, including limitations on impervious cover.
 - (2) **Drainage.** Compliance with the following regulations is required:
 - (a) Section 23-10E-1050 (Obstruction of Waterways Prohibited);
 - (b) Section 23-10E-1060 (Duty to Maintain Unobstructed Waterways);
 - (c) Section 23-10E-2020 (Director Authorized to Require Erosion Hazard Zone Analysis);
 - (d) Section 23-10E-2030 (Floodplain Maps, Delineation, and Depiction);
 - (e) Erosion hazard zone requirements in Section 23-10E-3010 (Criteria For Approval Of Development Applications);
 - (f) Division 23-10E-4 (Special Standards in Zoning Jurisdiction); and
 - (g) Section 23-10E-5020 (Dedication of Easements and Rights-Of-Way).
 - (3) **Waterway Setbacks**
 - (a) Except as provided in Subsection (C)(3)(b):
 - (i) For a legal tract or a lot platted on or after October 28, 2013, compliance with the waterway setback requirements established in Division 23-3D-4 (Waterway and Floodplain Protection);
 - (ii) For a lot platted on or after May 18, 1986, but before October 28, 2013, compliance with the waterway setback requirements in effect on October 27, 2013, which shall be specified in the Environmental Criteria Manual; and

23-2A-3030(B)(2): One to Two-Unit Residential

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Sections 23-2A-3030(B)(2) and 23-2A-3040(B)(2)

Direct Staff to look at on-site alternatives that could be applied without triggering an engineer's letter and these should be directly proportional to the size of the expansion or construction such as the following alternative language:

(2) Provide an affidavit from both owner and applicant, agreeing to preserve or improve existing drainage patterns and to provide an engineered grading plan and complete the work specified therein if it is determined by the Building Official that there has been an adverse impact to adjoining lots attributable to an as-built condition within one year from the date of the certificate of occupancy, if the construction, remodel or expansion is:

(A) more than 300 square feet; and

(B) Located on an unplatted tract or within a residential subdivision approved more than five years before the building permit application was submitted.

- (b) For all properties located within 75 feet of the shoreline of Lake Austin, compliance with the waterway setback requirements established in Division 23-3D-4 (Waterway and Floodplain Protection) is required.
- (4) **Tree Protection.** Compliance with the applicable requirements of Division 23-3C-2 (Public, Keystone and Protected Trees) and Division 23-3C-3 (Heritage Trees) is required.
- (5) **Construction on Slopes.** For a legal tract or a lot platted on or after May 18, 1986, compliance with all applicable requirements of Section 23-3D-8030 (Construction on Slopes) is required.
- (6) **Cut and Fill Standards.** Compliance with all applicable requirements of Sections 23-3D-8060 (Cut Standards) and Section 23-3D-8070 (Fill Standards) is required.
- (7) **Erosion and Sedimentation.** Compliance with all applicable requirements of Division 23-3D-7 (Erosion and Sedimentation Control).
- (8) **Technical Codes.** Compliance with all applicable requirements of Chapter 23-12 (Technical Codes) is required.
- (9) **Plat Restrictions.** Compliance with municipal regulatory restrictions on a recorded plat or covenant is required, to the extent the restrictions are determined to apply.

23-2A-3040 Three to Six-Unit Residential

(A) Applicability

- (1) This section specifies regulations and review procedures applicable to development associated with three to six units on a platted residential lot, except that this section does not apply to development that:
 - (a) Includes a boat dock, bulkhead, or shoreline access;
 - (b) Exceeds 45 percent impervious cover;
 - (c) Is on a lot that was not originally part of a residential subdivision;
 - (d) Is located in the Barton Springs Zone; or
 - (e) Requires a variance from the Land Use Commission.
- (2) **Residential** development that is subject to this section is exempt from regulations of this Title not specified under this section.

(B) Review Procedures. An application to construct or expand three to six residential units under this section:

- (1) Is exempt from the requirement for site plan approval under Section 23-6A-2010 (Site Plan Exemptions), but must include a residential development plan sufficient to determine whether the proposed construction complies with the regulations in Subsection (C); and

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- (2) Must include an engineer's certification that any changes to existing drainage patterns will not negatively impact adjacent property if the application proposes construction, modification to a roofline, or expansion that:
 - (a) Is more than 300 square feet; and
 - (b) Is located:
 - (i) on an unplatted tract;
 - (ii) within a residential subdivision approved without preliminary plan; or
 - (iii) within a residential subdivision approved with a preliminary plan and final platted more than five years before the building permit application was submitted.
- (C) **Development Regulations.** A building permit application submitted under this section must comply with the requirements described in Subsection 23-2A-3030(C) (One to Two-Unit Residential), except that regulations for tree protection are modified as provided under Division 23-3C-2 (Small Public, Keystone, and Protected Trees).
- (D) **Reduced Application Fees.** To facilitate residential development under this section, review and inspection fees required by this Title may be reduced as established by separate ordinance.

23-2A-3050 Administrative Modifications

(A) Applicability.

- (1) For a one to two-unit residential development, an applicant may request an administrative modification under this section from the waterway setbacks, construction on slopes, or cut and fill requirements imposed under Section 23-2A-3030 (One to Two-Unit Residential).
- (2) For any residential development subject to this division, an applicant may request an administrative modification under Section 23-3D-2070 (Administrative Modifications).

(B) Standards for Approval. The director shall grant an administrative modification under Subsection (A)(1) if, in the director's judgment, the proposed development meets the objectives of the standard for which the modification is requested and:

- (1) The usable lot area cannot accommodate the assumed square footage of impervious cover established under Section 23-3D-3050 (Impervious Cover Assumptions), after accounting for all applicable regulations;
- (2) The total proposed impervious cover does not exceed the assumed square footage of impervious cover established by Section 23-3D-3050 (Impervious Cover Assumptions); and
- (3) The administrative modification is the minimum deviation necessary to accommodate the development..

23-2A-3040(B)(2): Three to Six-Unit Residential

PC Motion #9

Sections 23-2A-3030(B)(2) and 23-2A-3040(B)(2)

Direct Staff to look at on-site alternatives that could be applied without triggering an engineer's letter and these should be directly proportional to the size of the expansion or construction such as the following alternative language:

(2) Provide an affidavit from both owner and applicant, agreeing to preserve or improve existing drainage patterns and to provide an engineered grading plan and complete the work specified therein if it is determined by the Building Official that there has been an adverse impact to adjoining lots attributable to an as-built condition within one year from the date of the certificate of occupancy, if the construction, remodel or expansion is:

(A) more than 300 square feet; and

(B) Located on an unplatted tract or within a residential subdivision approved more than five years before the building permit application was submitted.

23-2A-3060 Variances

- (A) An applicant may request:
 - (1) A variance or special exception from the Board of Adjustment under Division 23-4B-4 (Criteria for Variances and Special Exceptions) from any zoning regulation applicable to proposed development under this division; or
 - (2) For a one to two-unit residential project, a variance from the Land Use Commission, consistent with applicable requirements of Section 23-3D-2060 (Land Use Commission Variances).
- (B) A variance may not be approved from requirements of this division specifying which regulations of this Title apply under Section 23-2A-3030 (One to Unit-Residential) or Section 23-2A-3040 (Three to Six-Unit Residential).

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Article 23-2B: Application Review and Fees

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Division 23-2B-1: Application Requirements

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23-2B-1010 Application Requirements and Deadlines

- (A) The responsible director shall establish requirements for applications required by this Title, including timelines for completing staff review under Section 23-2B-2010 (Review and Processing), and requirements for updating applications provided in Section 23-2B-1040 (Update and Expiration) to comply with the requirements of this Title.
- (B) The responsible director may adopt application requirements under this section by administrative rule, or by policy memo, and shall post required application forms and any relevant rules or memos on the City's website.

23-2B-1020 Authority to File Application

A record owner, or record owner's representative, may file an application for a permit or other approval, as required or authorized by this Title. The responsible director may require an applicant to provide evidence of the applicant's authority to file an application.

23-2B-1030 Application Completeness

- (A) The responsible director may not accept an application for review unless the application is determined to be complete in accordance with this section.
 - (1) The responsible director shall accept an application as complete if, not later than 45 days after the application is submitted, the applicant has paid the required fee and provided the information required to be included in the application.
 - (2) If an application is determined to be incomplete, the responsible director shall provide the applicant a written explanation identifying the deficiencies, and the information required to complete the application within 10 business days after receipt of the application.
 - (3) If the responsible director provides a written explanation of deficiencies within the 10-day period, as required under Subsection (A)(2), the application expires if it is not complete on or before the 45th day after the application is submitted. An applicant may submit an update with additional information required to complete an application at any time before the application expires.

- (B) The responsible director may allow an applicant to omit required information from an application if the director determines that the information is not material to a decision on the application.

23-2B-1040 Update and Expiration

- (A) Following acceptance of an application as complete under Section 23-2B-1030 (Application Completeness), the responsible director shall provide written comments to the applicant, identifying any changes or corrections required for development proposed in the application to comply with the Land Development Code. The responsible director shall, to the greatest extent possible, provide comments on or before the deadlines for staff review established under Section 23-2B-2010 (Review and Processing).
- (B) An applicant may submit an update to an application in response to the responsible director's comments at any time before the application expires under Subsection (C), except that an update may not be submitted after an application is approved under Section 23-2B-2030 (Application Approval). An update must be submitted in a manner required by the responsible director.
- (C) An application expires if the responsible director does not approve the application under Section 23-2B-2030 (Application Approval) within one year from the date the application is submitted, unless:
 - (1) The responsible director determines that an application was sufficient to comply with the requirements of this Title on or before the one-year expiration date, in which case the application shall be considered approved; or
 - (2) The updated deadline is extended under Section 23-2B-1050 (Tolling of Expiration Period), in which case the application expires unless the applicant submits an update sufficient to comply with the requirements of this Title on or before the date of the extended deadline.

23-2B-1050 Tolling of Expiration Period

- (A) If the time required for staff review of an application exceeds the review time established by the responsible director under Section 23-2B-1010 (Application Requirements and Deadlines), the director shall:
 - (1) Extend the one-year expiration period under Section 23-2B-1040 (Update and Expiration) by the number of days that staff exceeded the review time; and
 - (2) Notify the applicant, in writing, of the new deadline for submitting an update.

- (B) This subsection establishes a “stop the clock” provision for applications requiring one or more public hearings under this Title.
- (1) The one-year expiration period established by Section 23-2B-1040 (Update and Expiration) is tolled, and stops running, if:
 - (a) The responsible director determines that the application requires a public hearing before a board, commission, or the city council; and
 - (b) Before the one-year expiration date established by Section 23-2B-1040 (Update and Expiration), the application is deemed to comply with all applicable standards other than:
 - (i) Obtaining an approval or recommendation for which a public hearing is required;
 - (ii) Payment of fees or fiscal surety; and
 - (iii) Other standards of this Title, as determined by the responsible director under Section 23-2B-1010 (Application Requirements and Deadlines); or
 - (c) The applicant has provided a 120 or 270 day notification to a tenant of a multi-family building or manufactured home park, as required by Section 23-3E-3020 (Tenant Notification Required).
 - (2) If an application has received all discretionary approvals for which a public hearing is required, the applicant must submit all updates necessary for approval of the application no later than 120 **business** days after the expiration period established by Section 23-2B-1040 (Update and Expiration).
 - (3) If a decision by a board or commission is appealed, the expiration period established by Section 23-2B-1040 (Update and Expiration) remains tolled pending a final decision on the appeal.
 - (4) If expiration of an application is tolled under this section, the expiration period for all other applications associated with the same project is also tolled.

23-2B-1060 Effect of Expiration on Related Applications

If an application expires, all other unapproved applications for that development, which are listed below the expired application under Section 23-2A-2010 (Order of Process), also expire.

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23-2B-2010 Review and Processing

- (A) The responsible director shall establish standards for staff review and comment on pending applications, including deadlines for issuing comments on pending applications for purposes of determining when an application expires under Division 23-2B-1 (Application Requirements).
- (B) The responsible director may adopt review deadlines under this section by administrative rule, or by memo, and shall post the deadlines, and all related rules or memos on the City's website.

23-2B-2020 Sequence of Review

- (A) The responsible director shall require an applicant to obtain approvals in the order prescribed by Section 23-2A-2010 (Order of Process). If proposed development requires two or more approvals in the same category, including, not not limited to quasi-judicial or administrative approvals, the responsible director may specify the order in which the approvals must be obtained.
- (B) If approval of an application requires a public hearing before the council or a board or commission, the responsible director may not place the application on the agenda for hearing unless staff review is complete and a recommendation, if required, will be available for consideration before the hearing.

23-2B-2030 Application Approval

- (A) Except as provided in Subsection (B), The responsible director shall approve an application if development proposed in the application meets the standards of the Land Development Code and has received all discretionary approvals, if any, required from the council or a city board or commission.
- (B) If an application requires public notice under Division 23-2C-5 (Notice of Applications and Administrative Decisions) or Section 23-3E-3020 (Tenant Notification Required), the responsible director may not approve the application until after the required notification period or schedule a public hearing for a date that falls during the required notification period.
- (C) An application may not be updated or modified following approval, except as otherwise provided by this Title.

23-2B-2040 Disapproval and Denial

- (A) An application is disapproved if the responsible director issues comments requiring an applicant to make changes or corrections for development proposed in the application to comply with the Land Development Code. If an application is disapproved, the applicant may submit an update in response to the director's comments before the deadline established under Section 23-2B-1040 (Update and Expiration).
- (B) An application that does not comply with the standards of this Title on the date of the deadline required by Section 23-2B-1040 (Update and Expiration) is denied and cannot be updated.

23-2B-2050 Development Assessment

(A) Purpose and Limitations

- (1) A development assessment is a preliminary review by City staff to assist an applicant in complying with the standards of the Land Development Code. The purpose of a development assessment is to identify problems and concerns before submittal of a permit application and to obtain an estimate of required fees.
- (2) A development assessment is not a permit and is not required to initiate, continue, or complete development. However, the City encourages applicants to seek a development assessment for residential developments of more than 200 acres and for commercial or mixed-use developments of more than 50 acres. The City may also require a development assessment as a condition obtaining certain voluntary development incentives or participating in other adopted city program.

- (B) **Scope of Assessment.** Any person may request a development assessment for property located within the planning jurisdiction. Depending on the nature and extent of proposed development, a development assessment may be requested to:
- (1) Explain the standards and procedures of this Title regarding approvals that may be required, including:
 - (a) Discretionary approvals, including, but not limited to zoning, rezoning, or variances;
 - (b) Subdivision or resubdivision; and
 - (c) Site plan and building permits.
 - (2) Identify fees required for necessary approvals; and
 - (3) Identify significant issues with a proposed development, including whether:
 - (a) Proposed land uses are consistent with the Comprehensive Plan and applicable zoning regulations;
 - (b) Proposed densities and overall design of the project is consistent with applicable site development standards;
 - (c) Existing transportation infrastructure is sufficient to accommodate development traffic generated by a proposed development consistent with the transportation plan and applicable standards;
 - (d) Proposed development is required to provide water quality controls or is affected by critical environmental features; and
 - (e) Adequate utilities are available to serve the development consistent with long-term capacity of utility providers.
- (C) **Timing of Assessment.** The responsible director shall provide a development assessment within a time frame established by the director under Section 23-3B-2010 (Review and Processing). Following receipt of a development assessment, an applicant is entitled to at least one meeting with staff to review the assessment.
- (D) **Vested Rights Determinations.** An applicant may request a development assessment concurrent with a Fair Notice Application or a Vested Rights Petition under Article 23-2K (Vested Rights), but a development assessment itself does not constitute a basis for accruing vested rights to which a project is not otherwise entitled under this Title or other applicable law.

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Division 23-2B-3: Fees and Fiscal Surety

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23-2B-3010 Fees

Fees required under this Title shall be established by separate ordinance. All required fees must be paid before the responsible director may approve an application, **or at such earlier time as may be required under this Title or by administrative rule.**

23-2B-3020 Fiscal Security

- (A) An applicant must post fiscal surety required by this Title with the responsible director. The amount of the fiscal surety posted must be:
 - (1) Equal the estimated cost to the City to construct the infrastructure or conduct other work for which the fiscal surety is posted;
 - (2) Provided by a qualified professional; and
 - (3) Approved by the responsible director.
- (B) Except as otherwise authorized by this Title, an applicant shall post as fiscal surety a cash deposit, a performance bond, or a letter of credit.
- (C) The responsible director shall return fiscal security to the applicant if it is determined that:
 - (1) The applicant obtained a certificate of occupancy, certificate of compliance, or final acceptance letter approving the work for which the fiscal security was posted; or
 - (2) The obligation to do the work for which the fiscal security was posted has terminated.
- (D) If the responsible director determines that an applicant has failed to adequately construct required infrastructure or otherwise breached the obligations secured by the fiscal surety:
 - (1) The director may draw on fiscal surety to pay the cost of fulfilling the applicant's obligations;
 - (2) The director shall pay the balance of the unspent fiscal surety, if any, to the applicant; and
 - (3) The applicant shall be responsible and liable to the City for the cost of work required under this Title that exceeds the amount of fiscal surety, if any.

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Article 23-2C: Notice

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Division 23-2C-1: General Provisions

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23-2C-1010 Purpose and Applicability

- (A) The purpose of this article is to establish uniform notice procedures for different types of actions for which notice is required under the Land Development Code. Additional notice procedures may be required by other provisions of this Title or by state law.
- (B) Throughout this Title, notice requirements are established for particular types of development applications and administrative decisions by referencing procedures established in this article. Notice is not required for every development application or administrative decision, but only where required by a specific provision of this Title.

23-2C-1020 Summary of Notice Requirements

- (A) Table (A) (Summary of Notice Requirements) provides an overview of the different categories of public notice required under this Title.

Table 23-2C-1020 (A) Summary of Notice Requirements

Type of Notice	LDC Section	Published Notice	Mailed Notice
		Deadline	Deadline
Related to Specific Site or Project			
Public hearing before a board or commission	Section 23-2C-4020 (Type 1)	16 days before hearing	11 days before hearing
Public hearing before the council	Section 23-2C-4020 (Type 1)	16 days before hearing	16 days before hearing
Filing of development application	Section 23-2C-5010 (Notice of Application)	—	14 days after application
Issuance of administrative decision	Section 23-2C-5020 (Notice of Decision)	—	1 day after decision
Unrelated to Specific Site or Project			
Public hearing before a board or commission	Section 23-2C-4030 (Type 2)	16 days before hearing	11 days before hearing
Public hearing before the council	Section 23-2C-4030 (Type 2)	16 days before hearing	16 days before hearing
Application for non-project code interpretation	Section 23-2C-5010 (Notice of Application)	—	14 days after formal application
Non-project code interpretation	Section 23-2C-5020 (Notice of Decision)	—	14 days after decision

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Division 23-2C-2: Notice Requirements

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23-2C-2010 Notice Required

- (A) A person or organization is entitled to notice of a public hearing, application, or administrative decision under this Title if a provision of this Title requires the responsible director to provide the person or organization with notice of the public hearing, application, or administrative decision.
- (B) The responsible director shall ensure compliance with the notice requirements of this Title, including in the conduct and scheduling of public hearings. Failure to receive notice does not invalidate a legislative, quasi-judicial, or administrative approval, except as otherwise provided under state law.

23-2C-2020 Interested Parties

- (A) Except as otherwise provided by in this Title or state law, a person or organization must qualify as an interested party under this section to be entitled to notice required by this Title, except as otherwise provided by another provision of this Title or by state law.
- (B) An interested party is:
 - (1) An applicant for a development approval that is the subject of a public hearing or administrative decision under this Title;
 - (2) A record owner of property included in an application for a development approval that is the subject of a public hearing or administrative decision under this Title; or
 - (3) A person who:
 - (a) Occupies a primary residence that is within 500 feet of the site of the proposed development;
 - (b) Is the record owner of property within 500 feet of the site of the proposed development;
 - (c) Is an officer of a community organization that has overlapping boundaries with the site of a proposed development or whose declared boundaries are within 500 feet of the site of the proposed development; or
 - (d) Has an active utility account address located within 500 feet of the site of the proposed development, as shown in the City utility records on the date of the filing of the application.

23-2C-2030 Registered Parties

- (A) The responsible director shall adopt requirements by which any person or group may register to receive notice of public meetings, hearings, or administrative decisions regarding an application for development approval, regardless of whether the person or group qualifies as an interested party under Section 23-2C-2020 (Interested Parties) or is otherwise entitled to notice under this Title.
- (B) To register to receive notice under this section, a person must provide contact information as required by the responsible director and may only register for notice in connection with pending applications filed for review.
- (C) The responsible director shall provide a person or group who registers under this section notice of all public meetings, public hearings, and administrative decisions for which an interested party under Section 23-2C-2020 (Interested Parties) is entitled to receive notice. However, the responsible director may provide notice to a person or group registered under this section by email rather than by mailing notice under Section 23-2C-3020 (Mailed Notice).

23-2C-2040 Staff Briefings

The responsible director may schedule staff briefings before a board or commission, or before the city council, on items unrelated to a pending development application. Notice for a staff briefing must comply with the Government Code, Chapter 551 (Open Meetings Act).

Division 23-2C-3: General Notice Procedures

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23-2C-3010 Published Notice

If this Title requires the responsible director to provide notice by publication, the notice is effective on the date a notice is published in a newspaper of general circulation in the City.

23-2C-3020 Mailed Notice

- (A) Mailed notice required to be provided by this Title is effective on the date a letter is deposited in a depository of the U.S. Post Office, postage paid, and addressed to:
 - (1) An applicant, by mailing notice to the property owner or agent at the address shown on the application or on a written change of address form filed with responsible director;
 - (2) A notice owner of real property, by mailing notice to the owner shown on the records of the county tax appraisal district;
 - (3) A record owner of real property, by mailing notice to the owner at the street address of the property or, if the property does not have a street address, to the return address shown on the deed;
 - (4) A registered community organization, by mailing notice to the primary of the organization at the mailing address named in the City registration information;
 - (5) A utility account address, by mailing addresses as shown in the City utility records on the date of the filing of the application; and
 - (6) An interested or registered party, by mailing to the address on file.
- (B) Notice by certified mail, return receipt requested, is not required unless specifically prescribed by this Title or state law.
- (C) Notice by hand delivery may be substituted for notice by mail if the addressee provides a receipt of delivery.

23-2C-3030 Notification by Email

- (A) The responsible director may allow a person entitled to mailed notice under this Title to submit a written request to receive notification by email instead of mailed notice under Section 23-2C-3020 (Mailed Notice), except where mailed notice is specifically required by state law.
- (B) If the responsible director approves a request for emailed notification, the director shall not provide additional mailed notice to the requester under this Title and shall instead provide all subsequent notification to the requester by sending one or more emails containing the information required by this Title. Emailed notice provided under this section must be sent no later than the applicable deadline required for mailed notice.
- (C) A person may, at any time, revoke in writing a prior request for emailed notice or provide an updated email address. If a person revokes a request for emailed notice, the director shall provide that person with mailed notification as required by this Title.
- (D) The director shall, as authorized by Section 23-2B-2010 (Review and Processing), adopt procedures and deadlines for reviewing requests, revocations, and updates related to emailed notification. The director may choose to limit email notification to certain categories of applications.

23-2C-3040 Notification Signs

- (A) If this Title requires notice to be provided by posting a sign, the responsible director shall post the sign in the manner prescribed by this section.
- (B) A sign must be in a form approved by the responsible director and must:
 - (1) Specify the type of action pending, the file number, the name and telephone number of the person to contact for additional information;
 - (2) Be reasonably readable from the street; and
 - (3) Be spaced not more than 200 feet apart from another sign for the same application.
- (C) If the street frontage of the subject property is less than 200 feet in length, only one sign is required. Not more than three signs are required regardless of the length of the street frontage.
- (D) Signs must be posted at least 14 days before the action for which notice is required.
- (E) A person may not remove a sign before the earliest date on which action may be taken on the application.
- (F) If requested by an applicant, the responsible director may allow the applicant to post a sign required by this Title. An applicant permitted to post a sign must:
 - (1) Place and maintain the sign on the property in compliance with this section;
 - (2) Verify placement of the sign in a manner prescribed by the responsible director;
 - (3) Respond within 24-hours of receiving a complaint that a sign has been removed or altered in violation of this section; and
 - (4) Remove the sign within seven days after the public hearing is closed and final action is taken on the matter for which notification is required, or pay costs incurred by the City in removing the sign.

Division 23-2C-4: Notice of Public Hearings

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23-2C-4010 Contents of Public Hearing Notice

- (A) Notice of a public hearing required by the Land Development Code must be in a form approved by the responsible director and must meet the requirements of this section.
- (B) Notice of a public hearing must:
 - (1) Generally describe the subject matter of the public hearing;
 - (2) For notice required under Section 23-2C-4020 (Type 1 Public Hearing Notice), identify the applicant and the location of the subject property;
 - (3) Identify the body holding the public hearing and the date, time, and place of the public hearing;
 - (4) If the decision of the body holding the public hearing may be appealed, describe the procedure and standards for an appeal; and
 - (5) Include the address and telephone number of the office from which additional information may be obtained.

23-2C-4020 Type 1 Public Hearing Notice

- (A) **Purpose and Applicability.** Throughout this Title, Type 1 Public Hearing Notice is the primary type of notice required for public hearings that pertain to specific properties or parties. A public hearing requires a Type 1 Public Hearing Notice under this section only where specifically required by this Title.
- (B) **Notice Recipients.** When a Type 1 Public Hearing Notice is required by this Title, the responsible director shall mail notice under this section to persons who qualify as interested parties under Section 23-2C-2020 (Interested Parties).

(C) **Deadlines for Mailing & Publication**

- (1) For a public hearing before a board or commission, the responsible director shall mail Type 1 Public Hearing Notice no later than 11 days before the date of the public hearing.
 - (2) For a public hearing before the council, the responsible director shall mail and publish Type 1 Public Hearing Notice no later than 16 days before the date of the public hearing.
- (D) **Posting Signs.** The responsible director is not required to post signs for a Type 1 Public Hearing Notice under this section except where this Title specifically requires signs to be posted. Examples of a Type 1 Public Hearing Notice that requires posting signs include variance applications and public hearings under Division 23-2F-1 (Variances and Special Exceptions).

23-2C-4030 Consolidated Notification

- (A) For public hearings on two or more applications related to the same property or development, the director may provide a single consolidated notice under Section 23-2C-4020 (Type 1 Public Hearing Notice) if the hearings are scheduled on the same date before the same body or before two or more bodies not later than 45 days after the date notification is provided.
- (B) The responsible director shall provide consolidated notice under this section no later than the earliest date that public hearing notice for any of the applications is required by this Title.

23-2C-4040 Type 2 Public Hearing Notice

- (A) **Purpose and Applicability.** Throughout this Title, Type 2 Public Hearing Notice is the primary type of notice required for public hearings that pertain to broader areawide planning or legislative issues that are not directly related to a specific property or development proposal. A public hearing requires Type 2 Public Hearing Notice under this section only where specifically required by this Title.
- (B) **Notice Recipients.** The responsible director shall provide notice of a public hearing for issues without a subject property address by mailing notice to registered neighborhood and environmental organizations and by publication.
- (C) **Deadlines for Mailing & Publication**
 - (1) For a public hearing before a board or commission, the responsible director shall mail Type 2 Public Hearing Notice no later than 11 days before the date of the public hearing.
 - (2) For a public hearing before the council, the responsible director shall mail and publish Type 2 Public Hearing Notice no later than 16 days before the date of the public hearing.
- (D) **Posting Signs Not Required.** Posting signs is not required for Type 2 Public Hearing Notice under this section.

Division 23-2C-5: Notice of Applications and Administrative Decisions

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23-2C-5010	Notice of Application.	1
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23-2C-5010 Notice of Application

- (A) **Applicability.** If a provision of this Title requires the responsible director to provide notice of the filing of an application, the director shall provide mailed notice of the application to persons who qualify as interested parties under Section 23-2C-2020 (Interested Parties).
- (B) **Contents of Notice.** Notice of an application provided under this section must:
 - (1) Describe the nature of the application and the proposed development;
 - (2) Identify the applicant and the location of the site;
 - (3) Identify the entity that may approve the application and whether approval of the application requires a public hearing;
 - (4) State that a party receiving notice of the application must register under Section 23-2C-2030 (Registered Parties) in order to obtain notice of a subsequent decision on the application;
 - (5) Provide a means for registering under Section 23-2C-2030 (Registered Parties) and for submitting comments on the application;
 - (6) State the earliest date that approval on the application may occur; and
 - (7) Include the address and telephone number of the responsible director from whom additional information may be obtained.
- (C) **Deadline for Mailing Notice.** The responsible director shall mail notice of an application under this section no later than 14 days after the application is filed.
- (D) **Action on Application.** Unless otherwise provided by this Title, the responsible director may not approve an application for which notice is required under this section sooner than 14 days after the date that notice is provided.

23-2C-5020 Notice of Administrative Decision

- (A) **Applicability.** If a provision of this Title requires the responsible director to provide notice of an administrative decision, the director shall mail notice of the decision to persons who qualify as registered parties under Section 23-2C-2030 (Registered Parties).
- (B) **Contents of Notice.** Notice of an administrative decision under this section must:
 - (1) Describe the nature of the administrative decision;
 - (2) Identify the applicant and the location of the site, unless the decision is a general code interpretation unrelated to a particular site; and

- (3) If the decision is subject to a right of appeal under this Title, provide information regarding the appeals process under Article 23-2I (Appeals).
- (C) **Deadline for Mailing Notice.** Notice of an administrative decision under this section must be provided no later than one day after the decision is issued.

Article 23-2D: Public Hearings

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23-2D-1010 Order of Presentations

- (A) Except for an appeal hearing under Article 23-2I (Appeals), a public hearing required by this Title shall proceed as follows:
 - (1) Report by City staff;
 - (2) Presentation by the applicant, for a hearing on an application related to a specific property;
 - (3) Presentation by persons supporting the application or proposal;
 - (4) Presentation by persons opposing the application or proposal; and
 - (5) Rebuttal by the applicant, for a hearing on an application.
- (B) A member of the body conducting the public hearing may ask questions of a person at any time during a presentation. With the approval of the chair, a presenter may ask questions of another person at the hearing.

23-2D-1020 Speaker Requirements

- (A) To speak at a public hearing required by this Title, a person must follow the process established in this section unless the body holding the public hearing authorizes a departure from these standards.
- (B) A person must register to speak at a public hearing with the presiding officer of the body conducting the hearing in the manner approved by the presiding officer.
- (C) A person who registers before a public hearing may speak during the appropriate portion of the hearing, as provided in Section 23-2D-1010 (Order of Presentations). The body conducting a public hearing may choose to require permission from the presiding officer for a person to speak who registers after a public hearing begins.
- (D) A speaker shall state his or her name at the beginning of a presentation and include it on the speaker registration form, which must also include the mailing address of the speaker and the matter to be addressed.
- (E) The body conducting a public hearing may limit a speaker's time to address the body. The presiding officer may request that a speaker eliminate repetitious or irrelevant testimony.

23-2D-1030 Order and Decorum

Speakers and members of a body conducting a public hearing should follow the standards of decorum established under Section 2-1-48 (Rules of Order).

23-2D-1040 Record of Public Hearings

- (A) The City shall create a video or audio recording of each public hearing.
- (B) The official record of a public hearing includes:
 - (1) The audio or video recording of the public hearing;
 - (2) Written staff reports; and
 - (3) Documentary evidence submitted during a public hearing and the official meeting minutes.
- (C) A person may review the official record of a public hearing.
- (D) The custodian of the records for the body conducting a public hearing may establish rules regarding the time and location for review of the record.

Division 23-2D-2: Timing and Location of Public Hearings

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23-2D-2010 Scheduling Public Hearings

- (A) If an application or legislative proposal requires a public hearing under this Title, the public hearing shall be scheduled in accordance with this section once the responsible director determines that the application or legislative proposal is complete and ready to be considered.
- (B) For a public hearing before a board or commission, the responsible director shall consult with the chair of the body conducting the hearing, select a place and a time certain for the hearing, and provide notice of the hearing as required by this article.
- (C) For a hearing before the council, the city manager shall select a place and a time certain for the hearing unless the council sets the public hearing.

23-2D-2020 Postponement and Continuation of Public Hearings

- (A) The body conducting a public hearing may postpone a public hearing by announcing the postponement on the date and at the time and location stated in the notice for the scheduled hearing and continue a public hearing to a later date by announcing the continuance after the hearing begins.
- (B) If the body conducting a public hearing postpones or continues a hearing to a specific date and time not later than 60 days after the date on which the postponement or continuance is announced, the announcement is adequate notice of the next hearing and additional notice is not required.
- (C) When a body conducting a public hearing postpones or continues a hearing, the next hearing shall be held at the same location as the original hearing unless a change in location is announced at the time of the postponement or continuance.
- (D) If a body does not specify a hearing date and time at the time that a postponement or continuance is announced, notice of the next hearing shall be provided in the manner required for the original hearing.

23-2D-2030 Change of Location of Public Hearings

- (A) The presiding officer of the body conducting a public hearing may change the location of a hearing after notification for the hearing has been provided if:
 - (1) Conducting the public hearing is necessary to meet deadlines established by law or to avoid delays that may adversely affect the public interest; and
 - (2) The procedures required by this section are followed.
- (B) To change the location of a public hearing, the presiding officer shall post a sign notifying the public of the change of location. The sign must:
 - (1) Be prominently displayed at the original location of the hearing on the date and at the time of the original hearing;
 - (2) Identify the hearing being relocated;
 - (3) State the time, date, and new location of the hearing; and
 - (4) Provide an explanation for relocation.
- (C) If the location of a hearing is changed, the body conducting a public hearing shall delay opening the hearing a sufficient period of time to provide a reasonable opportunity for persons planning to participate or observe the hearing to travel from the original location to the new location of the hearing.

Article 23-2E: Legislative Amendments

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Division 23-2E-1: Text Amendments

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23-2E-1010 Purpose, Applicability, and Policy Statement

- (A) The requirements of this division establish uniform procedures for amending the text of this Title. Procedures for amending the zoning map are provided in Division 23-4B-3 (Zoning Map Designations and Amendments).
- (B) While the council has legislative authority to amend the Land Development Code at any time, consistent with the requirements of state law, the City charter, and this division, the preferred policy of the City is to avoid:
 - (1) The frequent initiation of amendments to this Title;
 - (2) The use of code amendments to address unique or unusual circumstances that are unlikely to recur on a regular basis or are specific to a narrow category of properties or developments; and
 - (3) Initiating amendments to individual code sections or requirements, apart from a broader and more holistic review of related regulations bearing on the same overall topic.

23-2E-1020 Initiation of Text Amendments

- (A) Before a public hearing may be held on a proposed text amendment to this Title, the amendment must be initiated by council, the Planning Commission, or for an amendment to Chapter 23-11 (Technical Codes), the building official. This section establishes the process required for initiating a text amendment.
- (B) To initiate a text amendment:
 - (1) The council may approve a resolution that describes the purpose of the proposed amendment and specifies particular provisions, if any, that the council considers essential to that purpose;
 - (2) The Planning Commission may approve a motion that incorporates a staff report or describes, on the record, the purpose of the proposed amendment and particular provisions, if any, that the commission considers essential to that purpose; and
 - (3) The building official may initiate an amendment to Chapter 23-11 (Technical Codes) by memorandum sent to the appropriate technical code board describing the proposed amendment.

- (C) After a text amendment has been initiated, the responsible director shall:
- (1) Prepare a draft amendment, in consultation with affected City departments, if any, that is generally consistent with the terms of the initiation;
 - (2) Prepare a report describing the amendment and making a staff recommendation, which must include:
 - (a) Analysis of whether the amendment is consistent with applicable goals and policies of the Comprehensive Plan and any earlier council resolutions or City policies relevant to the proposed amendment; and
 - (b) Any concerns the responsible director has regarding implementation of the proposed amendment, including suggested alternatives, if any, for achieving the objective of the initiation; and
 - (3) Schedule the proposed amendment for public hearing before the appropriate board or commission Section 23-2D-2010 (Scheduling Public Hearing).

23-2E-1030 Review and Recommendation

- (A) The responsible director shall schedule a public hearing on a proposed amendment to this Title before the Planning Commission or, for a proposed amendment to Chapter 23-11 (Technical Codes), the appropriate technical code board, except as provided in Subsection (C). Notice for a public hearing shall be provided under Section 23-2C-4040 (Type 2 Public Hearing Notice).
- (B) Before presenting a proposed code amendment to the Planning Commission, the responsible director shall provide the following boards and commissions an opportunity to review a summary of the amendment and make a recommendation to the Planning Commission:
- (1) The Codes & Ordinances Joint Committee or, for an amendment affecting only historic zoning regulations, the Historic Landmark Commission; and
 - (2) The Environmental Commission, for an amendment to Article 23-3C (Urban Forest Protection and Replenishment), Article 23-3D (Water Quality), Article 23-10E (Drainage), or other environmental regulation.
- (C) In addition to the review required by this section, a proposed code amendment may be presented to one or more additional boards or commissions at the direction of the council, the Planning Commission, or the responsible director.
- (D) The council may, in the resolution initiating a code amendment, waive review required by this section, except for an amendment to Chapter 23-4 (Zoning), Chapter 23-5 (Subdivision), or other regulation for which review is required by state law.

23-2E-1040 Adoption by Council

- (A) The responsible director shall present a proposed amendment to this Title to the council for consideration at a public hearing after completing board and commission review under Section 23-2E-2030 (Review and Recommendation). If the Planning Commission or appropriate technical code board does not make a recommendation within a reasonable time after conducting a public hearing, the responsible director may forward the amendment to council without recommendation.
- (B) The responsible director shall provide notice of a public hearing before council under Section 23-2C-4040 (Type 2 Public Hearing Notice). In advance of the public hearing, the director shall provide council with a staff report, addressing the review criteria listed in Section 23-2E-2020(C)(2) (Initiation of Amendment) and summarizing the recommendation or deliberations of the boards and commissions review.
- (C) After conducting a public hearing, the council shall consider whether the proposed amendment is consistent with applicable goals and policies of the Comprehensive Plan based on the recommendations of the responsible director, City boards and commissions, and testimony at the public hearing. The council may adopt, deny, or modify the proposed amendment, consistent with applicable requirements of the City charter and state law.

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Division 23-2E-2: Plan and Map Amendments

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23-2E-2010 Amendment to the Zoning Map

An amendment to the Zoning Map may be initiated in accordance with the procedures in Chapter 23-4 (Zoning Code).

23-2E-2020 Comprehensive Plan Amendment

An amendment to the Comprehensive Plan is subject to the review and adoption procedures as provided in the City charter, Article X, Section 5.

23-2E-2030 Neighborhood Plan Amendment

- (A) **Purpose.** This section establishes procedures for amending a neighborhood plan. For purposes of this section, there are two types of neighborhood plan amendments:
 - (1) A neighborhood plan amendment regarding an individual property; and
 - (2) A neighborhood plan amendment regarding an area-wide recommendation.
- (B) **Applicability**
 - (1) **Individual Property.** A neighborhood plan amendment regarding an individual property may be initiated by:
 - (a) The owner of the subject property;
 - (b) The council;
 - (c) The Planning Commission;
 - (d) The responsible director; or
 - (e) The neighborhood plan contact team for the planning area in which the property is located.
 - (2) **Area-Wide Recommendation.** A neighborhood plan amendment regarding an area-wide or subdistrict-wide recommendation may be initiated by:
 - (a) The council;
 - (b) The Planning Commission;
 - (c) The responsible director; or
 - (d) The neighborhood plan contact team for the affected neighborhood plan area.

- (C) **Review Authority.** The council may approve a neighborhood plan amendment Application after considering the recommendations of the responsible director and Planning Commission, as well as the goals and policies of the Comprehensive Plan.
- (D) **Meetings, Hearings, and Notice**
- (1) **Application.** The responsible director shall give notice of the filing of a neighborhood plan amendment under Section 23-2C-5010 (Notice of Application).
- (2) **Community Meeting.** The responsible director shall conduct a community meeting on a proposed neighborhood plan amendment before the date on which the Land Use Commission is scheduled to consider the amendment.
- (3) **Planning Commission**
- (a) The Planning Commission shall hold a public hearing on a neighborhood plan amendment application not later than 90 days after the date the application is filed.
- (b) The responsible director shall provide notice of the public hearing under Division 23-2C-4 (Notice of Public Hearings).
- (4) **Council**
- (a) The council shall hold a public hearing on a neighborhood plan amendment application not later than 40 days after the date of the Planning Commission recommendation.
- (b) The responsible director shall provide notice of the public hearing before council under Division 23-2C-4 (Notice of Public Hearings).
- (5) **Responsibility for Cost of Notice**
- (a) **Individual Property**
- (i) For a neighborhood plan amendment regarding an individual property, the applicant is responsible for the cost of notice, unless the applicant is a neighborhood plan contact team.
- (ii) If the applicant is a neighborhood plan contact team, the City is responsible for the cost of notice.
- (b) **Area-Wide or Subdistrict-Wide Recommendation.** For a neighborhood plan amendment regarding an area-wide or subdistrict-wide recommendation, the City is responsible for the cost of notice.
- (E) **Pre-Application Meeting.** A pre-application meeting between the responsible director's staff and an applicant is required before the applicant may submit an application to amend a neighborhood plan to the director. At the meeting:
- (1) The staff shall describe the application process to the applicant;
- (2) The applicant shall describe the proposed neighborhood plan amendment to the staff;
- (3) If the applicant is proposing a change to the future land use map, the applicant shall provide the staff with information regarding the proposed change, including the address, boundaries, acreage, current and proposed future land use map categories, and current and proposed uses; and

- (4) If the applicant is proposing a text change, the applicant shall provide the proposed language and an explanation of the change.

(F) Application Review

- (1) **Individual Property Timing.** Except as provided in Subsection (F)(2), for an application regarding an individual property:
 - (a) The responsible director may accept an application to amend a neighborhood plan not earlier than one year after the adoption of the plan.
 - (b) After the one-year anniversary of a neighborhood plan's adoption, the responsible director may accept an application to amend a plan recommendation relating to an individual property not more frequently than once every 12 months.
 - (c) An application may be filed only during the month established by the responsible director under Subsection (K) unless:
 - (i) The application is submitted by a neighborhood plan contact team for the planning area in which the property is located; or
 - (ii) A neighborhood plan contact team for the planning area in which the property is located has given written approval of the application.
 - (d) An applicant may not file an application for an amendment that is substantially the same as an application denied by council until one year after the council action denying the earlier application.
- (2) **Individual Property Timing Exception.** The responsible director may accept an application regarding an individual property at a time other than as provided in Subsection (F)(1) if it is determined that:
 - (a) Prohibiting the filing would result in a hardship to the applicant, and the development proposed by the applicant will not adversely affect public health, safety, and welfare;
 - (b) A clerical error regarding the designated use of the subject property exists on the future land use map of the neighborhood plan or in the text of the plan;
 - (c) The person submitting the application has received a letter from the responsible director of the appropriate City department stating that the development:
 - (i) Is not subject to current City environmental standards, but is proposed to be developed in compliance with current City environmental standards;
 - (ii) Promotes the recruitment or retention of an employment center with 100 or more employees; or
 - (iii) Qualifies as an affordable housing project under Article 23-3E (Affordable Housing); or
 - (iv) Council has initiated the application.
 - (d) An applicant may appeal a decision of the responsible director made under Subsection (F)(2)(a) to the Planning Commission.
- (3) **Area-Wide or Subdistrict-Wide Application.** For an area-wide or subdistrict-wide application:
 - (a) The responsible director may accept an application to amend a neighborhood plan not earlier than two years after the adoption of the plan;

- (b) The responsible director may accept an application not earlier than two years after the most recent council action on the plan; and
- (c) An application initiated by council may be filed at any time.

(G) Expiration of Application and Extension

- (1) A neighborhood plan amendment application expires if the responsible director does not schedule the application for a public hearing:
 - (a) By the Planning Commission 181 days after the date of filing; or
 - (b) By the Planning Commission or council 181 days after the date on which the Planning Commission or council grants an indefinite postponement of a scheduled public hearing.
- (2) A neighborhood plan amendment application expires if the council does not adopt an ordinance 181 days after council closes the public hearing on the application.
- (3) A neighborhood plan amendment application initially submitted before the effective date of this section expires 180 days after the effective date of this Title, except as provided in Subsection (G)(4).
- (4) An applicant may file one request with the responsible director and one request with council to extend an application that will expire under Subsections (G)(1) or (G)(2). The request must be in writing, be filed before the application expires, state good cause for the extension, and be for not more than 180 days.

(H) Director's Recommendation. The responsible director may recommend approval of the neighborhood plan amendment only if the applicant demonstrates that:

- (1) The proposed amendment is appropriate because of a mapping or textual error or omission made when the original plan was adopted or during subsequent amendments;
- (2) The denial of the proposed amendment would not jeopardize public health, safety, or welfare;
- (3) The proposed amendment is appropriate because of a material change in circumstances since the adoption of the plan and denial would result in a hardship to the applicant;
- (4) The proposed development:
 - (a) Provides environmental protection that is superior to the protection that would otherwise be achieved under existing zoning and development standards; or
 - (b) Promotes the recruitment or retention of an employment center with 100 or more employees;
- (5) The proposed amendment is consistent with the goals and objectives of the neighborhood plan; or
- (6) The proposed amendment promotes additional affordable housing opportunities under Article 23-3E (Affordable Housing).
- (7) The proposed amendment complies with applicable standards and standards established by this Title, the objectives of Chapter 23-4 (Zoning Code), and the

purposes of the zone for the subject property and the proposed amendment is consistent with sound planning principles.

(I) **Planning Commission's Recommendation**

- (1) The Planning Commission shall make a recommendation to the council on a neighborhood plan amendment application not later than 14 days after the Planning Commission closes the public hearing on the application.
- (2) The Planning Commission shall consider the responsible director's recommendation before acting on the neighborhood plan amendment application.
- (3) If the Planning Commission does not adopt a recommendation on an application, the responsible director shall forward the application to council without a Planning Commission recommendation.
- (4) If the Planning Commission does not hold a public hearing under Subsection (D)(3), the applicant may file a written request for a hearing.
- (5) The responsible director shall report the Planning Commission's recommendation on each neighborhood plan amendment application to the council.

(J) **Council's Decision.** The council must consider the responsible director's recommendation and the Planning Commission's recommendation before acting on the neighborhood plan amendment application.

(K) **Map and Filing Date.** The responsible director shall establish a map designating the area of the City for which a neighborhood plan amendment must be submitted in February and the area for which an application must be submitted in July.

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Article 23-2F: Quasi-Judicial and Administrative Relief

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Division 23-2F-1: Variances and Special Exceptions

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23-2F-1010 Purpose and Overview

- (A) **Purpose.** The purpose of this division is to establish common procedures for the submittal and review of applications for variances or special exceptions for consideration by the Board of Adjustment or Land Use Commission. Specific requirements and criteria for different categories of variances and special exceptions are established elsewhere throughout this Title.
- (B) **Criteria.** Specific criteria for obtaining a variance or special exception depend on the regulations from which the variance or special exception is requested. A variance or special exception may only be approved where specifically authorized by this Title.
- (C) **Overview of Variances and Special Exceptions**
 - (1) **Variances**
 - (a) A variance is a quasi-judicial decision relaxing regulations or standards applicable to development under this Title. The requirements for obtaining a variance depend on the type of regulations from which the variance is requested, but in general a variance may only be approved if site conditions unique to a particular property create a hardship that makes strict compliance with a regulation impossible or unreasonable.
 - (b) Under this Title:
 - (i) The Board of Adjustment may consider a request for a variance from a zoning regulation, consistent with the requirements of Section 23-4B-4020 (Variances); and
 - (ii) The Land Use Commission may consider a request for a variance from subdivision regulations under Section 23-5B-1050 (Variance Filing and Consideration) and watershed regulations under Section 23-3D-2060 (Land Use Commission Variances).
 - (2) **Special Exceptions.** Like a variance, a special exception is a quasi-judicial decision relaxing development standards applicable to development under this Title. Unlike a variance, the requirements for obtaining a special exception are generally based on criteria other than a site-specific hardship. A special exception may only be granted if specifically authorized by this Title.

23-2F-1020 **Effect of Variance or Special Exception**

- (A) A variance or special exception may not be used as a means to:
 - (1) Amend the text of the Land Development Code;
 - (2) To change a zone or other legislative classification of property; or
 - (3) Contest the responsible director's decision regarding the applicability or interpretation of a development regulation.
- (B) Approval of a variance or special exception authorizes an applicant to submit a development application for review under the modified development standards established by the variance or exception. The responsible director shall review an application against the standards established in a variance or special exception unless the application expires under Section 23-2F-1070 (Expiration).
- (C) A variance or special exception applies only to the use for which the variance or exception is approved. Once development requiring approval of a variance or special exception is complete, any further development or redevelopment requires a new application.

23-2F-1030 **Application Requirements**

- (A) **Submittal Requirements.** A request for a variance must be submitted on a form approved by the responsible director under Division 23-2B-1 (Application Requirements). Depending on the nature and extent of proposed development, the responsible director may require that a complete development application be submitted before requesting a variance or may allow an applicant to defer submitting detailed construction and site-level information pending a decision on the variance request.
- (B) **Multiple Variances or Special Exceptions under Single Application.** An application for a variance or special exception may include one or more variances or special exceptions from regulations applicable to the same site or similar variances or special exceptions on two or more adjacent parcels with similar characteristics.
- (C) **Notice.** The responsible director shall provide notice of an application for a variance or special exception request under Section 23-2C-5010 (Notice of Application).

23-2F-1040 **Public Hearing and Notification**

- (A) The responsible director shall schedule a public hearing on a variance or special exception application before the appropriate board or commission if the director determines that the application for a variance or special exception is complete.
- (B) The responsible director shall provide notice of a public hearing on a variance or special exception application under Section 23-2C-4020 (Type 1 Public Hearing Notice) and post signs under Section 23-2C-3040 (Notification Signs).

23-2F-1050 Decision on Variance or Special Exception

- (A) **Timeliness of Decision.** When an application for a variance or special exception has been submitted in accordance with this division, the Board of Adjustment or the Land Use Commission shall act on the application not later than the next meeting after the public hearing is closed, except as otherwise provided in this chapter.
- (B) **Findings Required for Approval.** In approving a variance or special exception, the Board of Adjustment or Land Use Commission shall read into the record or incorporate by reference any findings required by the regulations of this Title authorizing the variance or special exception.
- (C) **Possible Actions on Application**
 - (1) In acting on an application for a variance or special exception, the Board of Adjustment or Land Use Commission may:
 - (a) Approve the application;
 - (b) Approve the application, subject to conditions or modifications required under Section 23-2F-1060 (Conditions and Modifications); or
 - (c) Deny the application.
 - (2) The Board of Adjustment shall act on a request for a special exception in the manner provided for variances under Subsection (C)(1).
- (D) **Documentation of Decision.** The executive liaison assigned by the responsible director to support the Board of Adjustment and Land Use Commission under Section 2-1-7 (Staff Support) shall document decisions on variances and special exceptions in a clear and uniform manner, including any conditions to approval of an application under Section 23-2F-1060 (Conditions and Modifications).

23-2F-1060 Conditions and Modifications

- (A) **Modifications**
 - (1) In acting on an application for a variance or special exception, the Board of Adjustment or Land Use Commission may reduce a numeric standard imposed under this Title by a lesser amount than requested by an applicant, but may not approve a greater increase than is stated in the public hearing notice provided under Section 23-2F-1040 (Public Hearing and Notification).
 - (2) For example, if public notice for a zoning variance describes an increase in maximum height from 40 feet to 60 feet, the Board of Adjustment could approve a variance increasing the height to 50 feet, but could not approve height above 60 feet without additional notification.
- (B) **Conditions.** The Board of Adjustment or Land Use Commission may require that a variance or special exception be:
 - (1) Made revocable;
 - (2) Effective for a specified time period, other than the one-year expiration period established in Section 23-2F-1070 (Expiration); or

- (3) Subject to one or more conditions that are:
 - (a) Reasonably related to the effects of proposed development on adjoining property; and
 - (b) Consistent with the purpose of the regulation from which the variance or special exception is approved and other applicable requirements of this Title.

23-2F-1070 Expiration

A variance or special exception expires if:

- (1) A complete development application is not submitted within one year after the variance or special exception is approved;
- (2) A development application associated with the variance or special exception expires;
or
- (3) An approved site plan, building permit, or preliminary plan associated with the variance or special exception expires.

Division 23-2F-2: Administrative Relief Procedures

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23-2F-2010 Purpose and Applicability

This division establishes procedures by which the Development Services Director or building official may relax development standards imposed under this Title administratively. The director or building official's authority under this division is strictly limited and may only be used for the purposes specifically authorized.

23-2F-2020 Review Authority

- (A) Authority and responsibility for implementing this division is delegated to the Development Services Director, referred to as "the director," and to the building official. However, the city manager may from time to time delegate particular functions to one or more other City departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this division, the director or building official may consult with other City departments regarding issues within that department's area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).

23-2F-2030 Exempt Residential Uses and Structures

- (A) **Purpose.**
 - (1) This section authorizes the building official to issue a certificate of occupancy for certain noncompliant residential structures established before the effective date of this Title.
 - (2) The purpose of this section is to avoid the unnecessary loss of residential housing opportunities available to Austin residents and reduce the costs to homeowners associated with remedying longstanding code violations which do not threaten public health and safety.
 - (3) This section further seeks to minimize the costs to the City associated with enforcing residential code violations that predate the advent and implementation of electronic property records and tracking methods and that do not pose a threat to public health and safety.

- (B) **Applicability.** This section applies to a single-family, single-family attached, duplex, multi-family, manufactured home, townhouse, or accessory dwelling unit use or occupancy that is located:
 - (1) Within a structure that existed on before January 1, 2008; and
 - (2) On a site that contains no more than nine dwelling units.
- (C) **Standard for Approval.** The building official shall issue a certificate of occupancy in compliance with this section if the building official determines that the use or occupancy meets the requirements in Subsection (B) and the structure containing the use or occupancy does not pose a hazard to public health, safety, or welfare. Compliance with applicable site development regulations or technical codes is not required to obtain a certificate of occupancy in compliance with this section, except to the extent considered necessary by the building official to protect public health, safety, and welfare.
- (D) **Status of Affected Properties.** If the building official approves a certificate of occupancy under this section:
 - (1) The structure becomes a nonconforming structure under Article 23-2G (Nonconformity), if the structure does not comply with applicable site development regulations on the date it receives the certificate of occupancy; and
 - (2) The use becomes a nonconforming use under Article 23-2G (Nonconformity) if it is unpermitted in the applicable base zone on the date the structure in which the use or occupancy is located receives the certificate of occupancy.
- (E) **Supporting Documentation.** An applicant requesting a certificate of occupancy under this section must, in addition to submitting a standard application form, provide whatever additional information is required by the building official to substantiate that the use or occupancy meets the criteria in Subsections (B) and (C).

23-2F-2040 Administrative Modifications

- (A) **Purpose and Applicability.** To avoid penalizing permittees for minor, inadvertent, and unforeseen errors in construction, this section authorizes the responsible director to grant de minimis modifications to specified development regulations before issuance of a certificates of occupancy or certificate of compliance under Division 23-2H-4 (Certificates of Compliance and Occupancy).
- (B) **Authority and Limitations.** If a structure exceeds the maximum height or building coverage allowed by this Title, or encroaches into a required yard setback, the responsible director may grant a modification relaxing the applicable regulation consistent with the requirements of this subsection.
 - (1) **Limited to Setback, Building Coverage, and Height.** The responsible director may approve an adjustment relaxing:
 - (a) A required building coverage or setback limitation by up to 10 percent; or
 - (b) Height requirement by up to five percent.

- (2) **Limited to Field Inspections.** The responsible director may not grant a modification under this section in connection with approval of a building permit or site plan. A modification may only be approved to address errors in construction:
 - (a) Performed under an approved building permit or site plan; and
 - (b) Discovered during an inspection required under this Title for issuance of a certificate of occupancy or compliance.
- (3) **Criteria for Approval.** The responsible director may only approve an adjustment under this section if the adjustment is the minimum amount necessary to address errors made inadvertently, and in good faith, due to unforeseen site conditions or other circumstances beyond the permittee's control.
- (C) **Prerequisite to Variance or Special Exception.** If a deviation from the requirements of this Title falls within the scope of relief authorized by this section, a permittee must request an administrative modification before seeking approval of a variance or special exception from the Board of Adjustment.

23-2F-2050 Alternative Equivalent Compliance

(A) Purpose and Applicability

- (1) Alternative equivalent compliance encourages creative and original design and accommodates developments where particular site conditions or the nature of a proposed use prevent strict compliance with this Title. This section grants the director limited flexibility in applying certain design standards relating to building placement and site configuration to facilitate development that meets the intent of this Title through alternative design which may not strictly adhere to particular standards or requirements.
- (2) Alternative equivalent compliance may only be used for development located in Mixed-Use, Main Street, Regional Center, or Commercial and Industrial Zones as authorized in this section, and may not be used to vary or modify zone regulations, such as height, setbacks, impervious cover, building coverage, or floor area ratio.

- (B) **Application Process.** An applicant may request an alternative equivalent compliance under this section during review of a development application that is subject to one or more of the design standards listed in Subsection (C). A request must be submitted in a manner approved by the director and include any information required by the director to determine whether the request meets the requirements for approval under this section.

(C) Modification Thresholds

- (1) If the director finds that a request for an alternative equivalent compliance meets the criteria in Subsection (D), the numeric standard for the design feature listed in Table (A) (Types of Alternative Equivalent Compliance Allowed) may be modified by:
 - (a) Up to 10 percent, for any design purpose;
 - (b) Up to 20 percent, if necessary to protect an existing natural site feature; or
 - (c) Any amount, if necessary to preserve a heritage tree.
- (2) Table (A) (Types of Alternative Equivalent Compliance Allowed) lists the design standards that may be modified under this section:

Table 23-2F-2040(A) Types of Alternative Equivalent Compliance

Standard	Section, Article, or Division
Utilities	
Decrease in the minimum distance between a building and installed utilities	
Circulation	
Modification of internal circulation routes	Article 23-4C
Decrease in minimum drive-through circulation lane width	Section 23-4E-6160
Building Design	
Decrease in minimum portion of a frontage consisting of continuous building facade	Article 23-4D
Modification of building design standards	Division 23-4E-8
Modification of building articulation requirements	Article 23-4D
Modification of building entrance requirements	Article 23-4D
Building Entryways	
Modification of entryway spacing and location	Articles 23-4D and 23-4E
Common Open Space	
Decrease in minimum depth, width, or total area of play area	Table 23-4C-1030 (A)
Increase of the portion of open space above ground level that may be counted towards compliance	Section 23-4C-1030
Decrease in maximum covered open space	Section 23-4C-1030
Decrease in minimum open space adjacent to bus rapid transit (BRT) stations	Section 23-4C-1030

- (D) **Criteria for Approval.** The director may approve a request for an alternative equivalent compliance under Subsection (C) only on finding that the requested modification:
- (1) Is necessary due to unusual site features, such as slopes, size, shape, and vegetation, or design difficulties that are not typical of similar projects;
 - (2) Is necessary because of physical design characteristics unique to the proposed use, or type of use, that make strict compliance with a design standard impracticable or unreasonable;
 - (3) Complies with all other applicable regulations of this Title, including zoning, drainage, water quality, water utility, wastewater utility, reclaimed utility, and technical codes; and
 - (4) Does not adversely affect health, safety, or general welfare of surrounding residents or the general public.
- (E) **Conditions of Approval.** The director may impose reasonable conditions on approval of a request for an alternative equivalent compliance, as needed to mitigate direct effects of the modification consistent with the purpose of the applicable regulation. Conditions imposed under this subsection must be limited to on-site design features or modifications and may not include requirements for off-site improvements or dedications.

- (F) **Decision on Alternative Equivalent Compliance Request.** The responsible director shall document a decision to approve a request for an alternative equivalent compliance on the site plan or building permit to which the modification applies and ensure that the decision is easily accessible if that a subsequent application is submitted for the same property.
- (G) **Effect of Alternative Equivalent Compliance Approval.** A decision to approve an alternative equivalent compliance applies only to the specific application for which it is approve and does not establish a precedent for approval of other requests.

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Division 23-2F-3: Limited Adjustments

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23-2F-3010 Purpose and Applicability

- (A) This division establishes procedures by which the council may adjust the requirements of Article 23-3D (Water Quality) if the council concludes, or a court of competent jurisdiction renders a final judgment concluding, that the application of Article 23-3D (Water Quality) to a specific development project or proposal violates or conflicts with:
 - (1) The United States Constitution or the Texas Constitution; or
 - (2) A state or federal statute that preempts the City code or City charter.
- (B) This division does not apply to a decision on a vested rights petition under Division 23-2K-1 (Petition and Review Procedures).
- (C) The Watershed Director is the director for purposes of administering the procedures established in this division and is hereafter referred to as “the director.”

23-2F-3020 Application for Limited Adjustment

- (A) An application for a limited adjustment requested under this division must be filed on a form approved by the director and may be considered only in connection with the review of:
 - (1) A site plan;
 - (2) A subdivision; or
 - (3) Other specific development proposal.
- (B) In addition to standard information required by the director under Division 23-2B-1 (Application Requirements), an application for limited adjustment must:
 - (1) Identify the Section of Article 23-3D (Water Quality) which the applicant claims would violate the laws referenced in Subsection 23-2F-3010(A) (Purpose and Applicability), as applied to the applicant’s property;
 - (2) State the factual basis for the applicant’s claims;
 - (3) Include a legal brief supporting the applicant’s claims;
 - (4) Describe the adjustment requested; and
 - (5) Demonstrate that the requested adjustment is the minimum required to comply with the constitutional or statutory requirements on which the request is based and provides maximum protection of water quality.

23-2F-3030 Initial Determination on Limited Adjustment

- (A) This subsection establishes the process by which the council shall assess the validity of an applicant's claim that Article 23-3D (Water Quality), as applied to the applicant's property, violates one or more of the laws referenced in Subsection 23-2F-3010(A) (Purpose and Applicability).
- (B) If the director determines that an application for limited adjustment is complete:
 - (1) The Law Department shall review the application and advise the director on the legal validity of the applicant's claims; and
 - (2) The director shall present the application and the director's recommendation to the council.
- (C) After receiving the director's recommendation, the council shall determine whether Article 23-3D (Water Quality), as applied to the applicant's property, violates one or more of the laws referenced in Subsection 23-2F-3010(A) (Purpose and Applicability). If a request for limited adjustment pertains to development that is subject to Division 23-3D-9 (Save Our Springs Initiative), an affirmative determination requires the concurring vote of three-quarters of the council.
- (D) If the council does not make an affirmative determination under Subsection (C), the application for limited adjustment is denied and shall not be scheduled for public hearing under Section 23-2F-3040 (Public Hearing on Limited Adjustment).

23-2F-3040 Notice and Public Hearing

- (A) The director shall schedule a public hearing on an application for limited adjustment before the council if:
 - (1) The council makes an affirmative determination on the validity of a request for limited adjustment under Section 23-2F-3030 (Initial Determination on Limited Adjustment); and
 - (2) The director determines that the application complies with all requirements of this Title, other than those for which the limited adjustment is requested.
- (B) The director shall provide notice of a public hearing on a limited adjustment request under Section 23-2C-4020 (Type 1 Public Hearing Notice) and shall post signs under Section 23-2C-3040 (Notification Signs).
- (C) At the public hearing on a request for limited adjustment, the director shall present a recommendation to the council regarding the minimum adjustment required to comply with the conflicting laws on which the adjustment is based and provide maximum water quality protection.

23-2F-3050 Final Action on Limited Adjustment

After making an affirmative determination under Section 23-2F-3030 (Initial Determination) and conducting a public hearing under Section 23-2F-3040 (Notice and Public Hearing), the council shall determine the minimum adjustment required to comply with the conflicting laws on which the adjustment is based and provide maximum water quality protection and grant the limited adjustment.

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Article 23-2G: Nonconformity

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Division 23-2G-1: General Provisions

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23-2G-1010 Purpose, Applicability, and Review Authority

- (A) **Purpose.** This article provides standards for nonconforming land uses, structures, and lots established under Section 23-2G-1020 (Nonconforming Status). The purpose of this article is to:
- (1) Generally allow nonconformities to continue until they stop by abandonment or through conformance with applicable regulations; but
 - (2) Discourage the long-term continuation of nonconformities by limiting investments in them and restricting expansions or alterations that increase their degree of noncompliance or otherwise affect adjoining properties or neighborhoods; and
 - (3) Seek to phase-out or amortize, where appropriate, those nonconformities that are considered to be especially incompatible with the Comprehensive Plan or applicable regulations of this Title or which pose a threat to public health, safety, and welfare.
- (B) **Applicability.** This article applies to:
- (1) A use, structure, or lot within the zoning jurisdiction that is nonconforming to land use or site development regulations under Chapter 23-4 (Zoning) or a separately adopted zoning ordinance; and
 - (2) A structure or lot within the planning jurisdiction that is nonconforming to other applicable regulations of this Title.
- (C) **Review Authority.** Authority and responsibility for implementing this article is delegated to:
- (1) The Planning Director, for regulations related to nonconforming uses; and
 - (2) The Development Services Director, for all other regulations of this article.

23-2G-1020 Nonconforming Status

(A) Nonconforming Uses

- (1) A use of land or buildings that does not conform with the applicable use regulations of Chapter 23-4 (Zoning), or a separately adopted zoning ordinance, is a nonconforming use if:
 - (a) The use existed lawfully, in conformance or legal nonconformance with applicable use regulations, on the date that a zoning restriction prohibiting or restricting the use became effective; and
 - (b) The use has continued to exist since the zoning restriction prohibiting or restricting the use became effective, without cessation or abandonment in violation of applicable regulations.
- (2) A use that is not a nonconforming use is in violation of this Title if it does not conform to the use regulations of Chapter 23-4 (Zoning) or a separately adopted zoning ordinance.
- (3) Nonconforming uses are declared to be incompatible with allowed uses in the zone in which they are located.

(B) Nonconforming Structures

- (1) A building, structure, or developed area, including a parking or loading area, that does not comply with site development regulations applicable under this Title, or a separately adopted zoning ordinance, is a nonconforming structure if it existed lawfully, in conformance or legal nonconformance with applicable site development regulations, at the time it was constructed.
- (2) A building, structure, or developed area that is not a nonconforming structure is in violation of this Title if it does not comply with applicable site development regulations.

(C) Nonconforming Lots

- (1) A platted lot that does not comply with the applicable regulations of this Title is a nonconforming lot if the lot existed lawfully, in compliance or legal noncompliance with applicable regulations, on the date the lot was platted.
- (2) A platted lot that is not a nonconforming lot is in violation of this Title if it does not comply with applicable regulations of this Title.

23-2G-1030 Determination of Nonconforming Status

- (A) **Purpose and Applicability.** This section establishes a process for obtaining a formal determination on whether an existing use or structure is nonconforming under Section 23-2G-1020 (Nonconforming Status). The responsible director may recognize a use, structure, or lot as nonconforming during review of a development application, without issuing an administrative determination under this section.

(B) Application Requirement

- (1) An applicant may request a determination from the responsible director under this section at any time on whether an existing use or structure is nonconforming under Section 23-2G-1020 (Nonconforming Status).
- (2) A request must be submitted on a form approved by the responsible director and include whatever information the director requires to substantiate the history of the use or structure for which the determination is requested.
- (3) The responsible director shall provide notice of an application for a determination of nonconforming status under Section 23-2C-5010 (Notice of Application).

(C) Determination Requirements

- (1) After receiving a request under this section, the director shall issue a written determination stating whether the use or structure is nonconforming under Section 23-2G-1020 (Nonconforming Status).
- (2) The responsible director shall provide notice of the determination under Section 23-2C-5020 (Notice of Administrative Decision).

23-2G-1040 Appeal of Decision on Nonconforming Status

- (A) Any person who meets the requirements of Division 23-2I-1 (General Provisions) may appeal the responsible director's determination of nonconforming status under Section 23-2G-1030 (Determination of Nonconforming Status) to the Board of Adjustment under Article 23-2I (Appeals).
- (B) If the responsible director issues a determination under Section 23-2G-1030 (Determination of Nonconforming Status), that determination may not subsequently be challenged by appealing the director's approval or disapproval of a development application for the use or structure.

23-2G-1050 Continuation of Nonconformity

- (A) **Purpose and Applicability.** This section specifies general requirements and limitations applicable to nonconforming uses and structures. Additional requirements for particular types of nonconformity may also apply, as provided by this article.
- (B) **Continuation of Nonconforming Use and Structures.** A nonconforming use or structure may continue to be used, operated, or occupied in compliance with the regulations under which it was established, but may not be expanded or converted except as provided in this subsection.
 - (1) **Expansion of Use Prohibited.** A nonconforming use may not be expanded or extended beyond the floor area or lot area that it occupied on the date it became a nonconforming use, except as otherwise provided by this article.
 - (2) **Conversion to Conforming Use Terminates Nonconformity.** If a nonconforming use is converted to a conforming use, a nonconforming use of the property or structure may not be resumed.

- (3) **Conversion to Other Nonconforming Use Prohibited.** A nonconforming use may not be established or replaced by another nonconforming use, except as provided in Subsection (B)(4).
- (4) **Conversion of Nonconforming Uses in Residential Buildings.** A nonconforming use operating within a single- or multi-family building may be replaced by another nonconforming use if:
 - (a) The responsible director determines that the requested use is of comparable or lesser intensity to the original nonconforming use; and
 - (b) The original use was not abandoned under Section 23-2G-1060 (Termination of Nonconforming Use).
- (5) **Conversion to Allowed or Conditional Use.** A nonconforming use may be converted to an allowed use or a conditional use for the zone in which the property is located.

(C) Modification to Nonconforming Structures

- (1) **General Standard.** A nonconforming structure may be maintained and repaired as necessary to allow its continued use and occupancy. However, a nonconforming structure may not be altered or expanded in a manner that exceeds the limitations established in Section 23-2G-1070 (Alteration of Nonconforming Structures) or that increases its nonconformity with the requirements of this Title, except as otherwise provided in this subsection.
- (2) **Height Requirements.** The director may approve a single increase to the height of a nonconforming structure if:
 - (a) The height increase is limited to a portion of the structure that complies with the maximum height required by this Title and will not cause the modified portion of the structure to exceed the maximum height requirement;
 - (b) The height increase is limited to a portion of the structure that is located outside of a setback required by this Title;
 - (c) The height increase does not exceed 15 percent of the building's existing height, as measured at the tallest point;
 - (d) The height increase will not cause the modified portion of the structure to exceed the existing height of the building, as measured at its tallest point; and
 - (e) No other application increasing the height of the structure has been approved since the structure became non-conforming.
- (3) **Setback Requirements.** A structure that is nonconforming with a setback required by this Title may only be altered if:
 - (a) The alteration is a vertical change in finished floor elevation allowed in compliance with Subsection 23-2G-1070(C)(2); or
 - (b) The modified portion of the structure does not exceed:
 - (i) The maximum height allowed by this Title;
 - (ii) The existing height of the tallest portion of the structure that extends or encroaches into a required setback, other than a street setback; or
 - (iii) If a structure is expanded horizontally, the lesser of 50 percent of the length of the nonconforming portion of the structure or 25 feet measured from the existing structure, parallel to the lot line.

23-2G-1060 Termination of Nonconforming Use

- (A) **Purpose and Applicability.** This section specifies circumstances under which a nonconforming use is terminated due to a change or abandonment of the use or the destruction of, or damage to, the structure in which the use occurs.
- (B) **Termination by Change of Use.** A nonconforming use may not continue or resume if the use changes to a conforming use.
- (C) **Termination by Abandonment or Discontinuance of Use**
 - (1) If a nonconforming use is discontinued for 90 or more consecutive days, then that use is abandoned and may not be renewed or reestablished. Any subsequent use of the parcel of land or structure must conform to the standards of the zone in which it is located.
 - (2) A seasonal discontinuance of a use, or a temporary discontinuance of a use for maintenance or repair, is excluded from a calculation of the 90-day period established under Subsection (C)(1).
- (D) **Termination by Destruction**

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- (1) A damaged structure used for a nonconforming use may be repaired and the nonconforming use continued only if the building official determines that the cost of repair does not exceed 50 percent of the value of the structure immediately before the damage, as determined by a licensed appraiser in a manner approved by the building official.
- (2) Approval of a site plan is not required to repair a structure under Subsection (D)(1) unless the building official determines that a substantial change to the structure or lot is proposed and that a site plan would be required by this Title for initial construction of a similar structure.
- (3) If the cost of repairing a damaged structure containing a nonconforming use exceeds the limitation established in Subsection (D)(1), the nonconforming use may not continue or resume.
- (4) If a nonconforming use is located within a structure that is also nonconforming with the requirements of this Title, any repair or alteration of the structure is also subject to Section 23-2G-1070 (Alteration of Nonconforming Structures).

23-2G-1070 Alteration of Nonconforming Structures

- (A) **Purpose and Applicability**
 - (1) Recognizing the costs associated with bringing existing structures into compliance with current regulations, this section allows limited alterations of nonconforming structures to occur without triggering full compliance with this Title.
 - (2) In order for a nonconforming structure to retain its legal nonconforming status an alteration, repair, or replacement must comply with the applicable requirements of this section and Section 23-2G-1050 (Continuation of Nonconformity).

23-2G-1060(D)(1): Termination of Nonconforming Use

PC Motion #10

Where an existing single-family home has been made non-conforming by the new code, that home can be renovated or rebuilt under today's standards. Staff to adjust language to not penalize existing homes that do not conform to the new zoning.

- (B) **Residential Structures.** Except for repair or replacement allowed under Subsection (D), a nonconforming residential structure loses its legal nonconforming status and must comply with all applicable regulations of the Title if it is altered in a manner that exceeds the limitations established in this subsection.

(1) Wall Demolition or Removal

- (a) No more than 50 percent of exterior walls and supporting structural elements of an existing nonconforming structure may be demolished or removed, including load bearing masonry walls, and in wood construction, studs, sole plate, and top plate. For purposes of this requirement, exterior walls and supporting structural elements are measured in linear feet and do not include the roof of the structure or interior or exterior finishes.
- (b) Replacement or repair of structural elements, including framing, is allowed if required by the building official to meet minimum health and safety standards.

- (2) Foundation Replacement or Alteration.** Replacement or alteration of an original foundation may not change the finished floor elevation by more than one foot vertically, in either direction.

- (3) Adding Habitable Space.** For any residential use other than a single-family residential use in Residential House-Scale Zones established in Subsection 23-4D-3030(A) (Allowed Land Uses), the following standards must be met to add square footage or convert accessory space into conditioned or habitable space:

- (a) If the lot is nonconforming with current lot size or lot width standards, the cost of improvements may not exceed 20 percent of the value of the structure before the improvements; and
- (b) Compliance with current parking, sidewalk, and occupancy standards is required.

- (4) Partial Demolition.** If a nonconforming portion of a residential structure is demolished, it loses its nonconforming status and may only be rebuilt in compliance with the applicable requirements of this Title.

- (C) **Non-Residential Structures.** Except for repair or replacement allowed under Subsection (D), a nonresidential structure loses its legal noncomplying status and must comply with all applicable regulations of this Title if it is altered in a manner that exceeds the limitations established in this subsection.

(1) Wall Demolition or Removal

- (a) If no more than 50 percent of the exterior walls and supporting structural elements are proposed to be demolished or removed, the applicant must remove any head-in parking spaces off of major roadways and correct any other parking conditions the director determines to be unsafe.
- (b) The following requirements apply if more than 50 percent of the exterior walls and supporting structural elements are proposed to be demolished or removed, but at least one exterior wall that constitutes 25 percent or more of the perimeter is retained:
 - (i) The requirements in Subsection (C)(1)(a);
 - (ii) Unsafe driveway conditions must be corrected, including the elimination non-compliant driveway approaches; and
 - (iii) Compliance with applicable sidewalk standards is required.

(2) General Provisions

- (a) For purposes of applying the requirements in Subsection (C)(1):
 - (i) If the director requires removal of off-street parking due to **unsafe conditions**, the parking spaces need not be replaced;
 - (ii) **In determining whether existing off-street parking causes unsafe conditions, the director may consider the safety impacts that removal of off-site parking spaces may have on adjacent streets;**
 - (iii) In wood construction, exterior walls include the studs, sole plate, and top plate;
 - (iv) Limits of construction for driveway closings or sidewalk modifications are excluded from square footage for purposes of Section 23-6A-2010 (Site Plan Exemptions); and
 - (v) Replacement or repair of load bearing walls or structural elements, including framing, is allowed to the extent required by the building official to meet minimum health and safety requirements.
- (b) The director shall deny an application to alter or repair a noncomplying structure under this subsection if the building official determines, based on the structure's condition, that it is infeasible to retain the portion of existing walls required under the applicable provisions of Subsection (C)(1).

(D) Involuntary Damage or Destruction. A nonconforming structure that is damaged or destroyed involuntarily by acts such as fire, explosion, flood, tornado, riot, act of the public enemy, or accident may be rebuilt or replaced with a new structure if:

- (1) An application to replace or rebuilt the structure is submitted no later than 18 months from the date the original structure was damaged or destroyed;
- (2) The new structure is located in the same footprint and does not exceed the height or number of stories as the original nonconforming structure;
- (3) For property within a flood hazard area, the alteration or replacement complies with all applicable technical codes in Chapter 23-11 (Technical Codes); and
- (4) It does not exceed the degree of nonconformity with the requirements of this Title as the original structure.

23-2G-1080 Effect of Conditional Use Permit

- (A) **Purpose and Applicability.** This section establishes requirements for uses that are nonconforming with this Title based on a requirement to obtain a conditional use permit or on the earlier issuance of a conditional use permit for the use. If a use that is nonconforming under this section is located within a nonconforming structure, additional restrictions may apply as provided in this article.
- (B) **Absence of Conditional Use Permit.** If an existing use was established as an allowed use, the use becomes nonconforming if it would require approval of a conditional use permit under this Title and may not be expanded beyond its existing site area boundaries or changed to another conditional use without obtaining a conditional use permit as required by this Title.

- (C) **Previous Conditional Use Permit.** A use that was authorized by a conditional use permit, but is not allowed by this Title in its current location may be:
- (1) Continued within its existing site area boundaries, subject to any conditions imposed by the conditional use permit; or
 - (2) Replaced by a similar nonconforming conditional use approved by the Land Use Commission, which may grant approval only if it finds that the replacement use will not more adversely affect surrounding uses than the original use based on traffic generation, noise, hours of operation, number of employees, and other relevant factors as determined by the Land Use Commission.

Division 23-2G-2: Specific Types of Nonconformity

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23-2G-2010 Nonconforming Uses Near Hazardous Pipelines

If a use is nonconforming with this Title solely because it does not meet the proximity standards in Section 23-4E-7030 (Development Near a Hazardous Pipeline), the use must comply with the standards of Section 23-2G-1050 (Continuation of Nonconformity) and Section 23-2G-1080 (Effect of Conditional Use Permit), but is otherwise exempt from the standards of this article.

23-2G-2020 Nonconforming Lots

- (A) **Purpose and Applicability.** The standards of this section apply to development or use of a legally platted lot that does not meet the minimum lot area standards of this Title. If a nonconforming lot contains a use or structure that is also nonconforming with standards of this Title, additional restrictions may apply under Division 23-2G-1 (General Provisions).
- (B) **Nonresidential Uses.** A nonconforming lot may be used for a nonresidential use that is allowed in the zone in which the lot is located if, except for minimum lot area, the use and development complies with the standards of this Title.
- (C) **Residential Uses.** A nonconforming lot may be used for a single-family residence use if the use is allowed in the zone in which the lot is located and the lot complies with the requirements of this subsection.
 - (1) A nonconforming lot recorded in the county real property records must:
 - (a) Have a minimum area of 2,500 square feet;
 - (b) Have a minimum width of 25 feet at the street or at the building line, or have access to a street by an easement that is:
 - (i) Minimum ten feet wide if it serves one lot, or minimum 18 feet wide if it serves more than one lot;
 - (ii) Maximum 100 feet in length; and
 - (iii) Maintained for access by the property owner; and
 - (c) Be an existing lot;
 - (d) Except for lot dimension requirements, comply with site development standards of the Residential House-Scale 2D (R2D) Zone;

- (2) If a nonconforming lot is used with one or more contiguous lots for a single use or unified development, the standards of this Title apply to the aggregation of lots as if the aggregation were a single lot.
- (3) A nonconforming lot that is aggregated with other property to form a site may not be disaggregated to form a site that is smaller than the minimum lot area required by this Title.

23-2G-2030 Nonconforming Parking

- (A) **Purpose and Applicability.** To encourage the conversion of nonconforming uses to conforming uses, the responsible director may approve an administrative modification to applicable parking requirements under this section if an applicant proposes changing a nonconforming use to a conforming use.
- (B) **Review Criteria.** If a use or structure ceases to be nonconforming due to abandonment or discontinuance under Section 23-2G-1060 (Termination of Nonconforming Use), the responsible director may approve an administrative modification reducing the requirements of Division 23-4E-3 (Parking and Loading) if the director determines strict compliance to be feasible based on:
- (1) Site conditions affecting the potential for a new conforming use to accommodate additional parking or reconfigure existing parking; and
 - (2) The degree to which the proposed conforming use would reduce traffic impacts or otherwise achieve greater compatibility with surrounding land uses than the existing nonconforming use.
- (C) **Limitation on Approval.** The responsible director may approve an administrative modification reducing the standards of Division 23-4E-3 (Parking and Loading) if strict compliance is determined to be infeasible under Subsection (B). A reduction approved under this section must be the minimum necessary, as determined by the director.

23-2G-2040 Nonconforming Docks, Bulkheads, or Shoreline Access

- (A) **Purpose and Applicability.** This section applies to a dock, bulkhead, or shoreline access that is nonconforming with the standards of this Title. If a nonconforming dock, bulkhead, or shoreline access is associated with a nonconforming use or located on a nonconforming lot, additional restrictions may apply as provided in this article.
- (B) **Nonconformity Limited to Accessory Uses.**
- (1) A nonconforming dock, bulkhead, or shoreline access may be repaired, reinforced, modified, or maintained under Subsection (C) only if it is an accessory use under Section 23-4E-6050 (Accessory Uses).
 - (2) Compliance with this Title is required to repair, reinforce, modify, or maintain a dock, bulkhead, or shoreline access that is a principal use of the property.

- (C) **Limitations on Repair Reinforcement, Modification, and Maintenance.** A nonconforming dock, bulkhead, or shoreline access that is accessory to a principal use, as required under Subsection (B), may be repaired, reinforced, modified, or maintained without coming into compliance with this Title if the standards of this subsection are met.
- (1) The location and footprint may not be altered and the degree of nonconformance may not be increased, except as allowed under Section 23-3D-8120 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long).
 - (2) Dock structural components, including load bearing beams, walls, piers, and roofs, may be altered or replaced without increasing the nonconforming length, height, or horizontal footprint of the dock, if the dock complies with Division 23-4E-5 (Docks, Bulkheads, and Shoreline) and Section 23-4E-6050 (Accessory Uses).
 - (3) A dock may not be altered or modified to increase:
 - (a) The number of walls;
 - (b) The height, width or depth; or
- (D) **Application Requirements**
- (1) To repair, reinforce, modify, or maintain a dock, bulkhead, or shoreline access under this section, an applicant must provide a survey of existing conditions with the site plan or building permit application that depicts current elevations, contours, trees, and any other information required by the responsible director.
 - (2) For a dock, bulkhead, or shoreline access constructed after January 1, 1984, the applicant must provide evidence of an earlier permit authorizing the construction to substantiate that the dock, bulkhead, or shoreline access meets the standards of Section 23-2G-1020 (Nonconforming Status).
 - (3) For a dock, bulkhead, or shoreline access constructed before January 1, 1984, no unpermitted additions or alterations that occurred after January 1, 1984 are allowed.

23-2G-2050 Nonconforming Short-Term Rental Use

A person shall discontinue a nonconforming Type 2 Short-Term Rental use that is regulated under Section 23-4E-6340(Short-Term Rental), no later than the earlier of:

- (1) April 1, 2022; or
- (2) If the license for a short-term rental use is not renewed, the date on which the existing license expires.

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Article 23-2H: Construction Management and Certificates

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23-2H-1010 Purpose and Applicability

- (A) This article applies to development occurring under an approved subdivision construction plan or site plan. It establishes uniform requirements to facilitate the efficient inspection and approval of development that may require review by multiple City departments or work groups.
- (B) The Development Services Director, hereafter referred to as “the director,” is the delegated authority responsible for administering this article and may adopt additional requirements as needed to implement this article.

23-2H-1020 Preconstruction Conference

- (A) **Preconference Required.** Unless the director determines that a preconference is unnecessary, an applicant or applicant’s representative must:
 - (1) Participate in a preconstruction conference with the director before starting construction under an approved subdivision construction plan or approved site plan; and
 - (2) Schedule the preconference at the time inspection fees are paid.
- (B) **Notification.** No later than seven days before a preconstruction conference, the director shall provide notice of the conference to appropriate parties, including the applicant and the applicant’s representatives, consulting engineer, and contractors, as well as the county engineer and any affected utility providers or City departments. The notice must state the date, time, and place of the conference and describe the development.
- (C) **Conference Procedures**
 - (1) The participants shall exchange contact information and discuss the start dates and schedule of events, erosion and sedimentation controls, traffic control barricades, site supervision, emergency response, special conditions or provisions of plans or specifications, final acceptance guidelines, and publishing and distribution of minutes of the conference.
 - (2) Before construction begins, the applicant's consulting engineer must prepare and distribute minutes of the preconstruction conference. Conference participants may file exceptions to the minutes, which the engineer shall distribute to conference participants and include in the inspection file.

23-2H-1030 Inspection Requests

- (A) A central dispatcher for the City shall coordinate contact between a permittee and an inspector. A permittee must contact the central dispatcher to request an inspection.
- (B) The director may specify the manner in which an inspection must be requested and may require that a request be made 48 hours before the date the inspection is requested.

23-2H-1040 Inspection Record Card

- (A) A permittee may not begin work under a site plan or subdivision construction plan until an inspection card is posted on the site, in a readily accessible location, and on a form approved by the director.
- (B) City inspectors shall note each inspection on the card, which must remain posted on-site until the director determines that the development meets all applicable requirements.

23-2H-1050 Erosion, Sedimentation, and Tree Protection Measures

- (A) **Purpose and Applicability.** This section establishes requirements for inspection of erosion and sedimentation controls and tree protection measures required by this Title, as well as changes to approved plans required to address deficiencies identified as a result of field inspections or plan review.
- (B) **Inspection Requirement**
 - (1) The director shall schedule an inspection of erosion and sedimentation controls and tree protection measures, which must be attended by the permittee or the permittee's representative.
 - (2) To pass inspection, the permit holder must:
 - (a) Demonstrate that erosion and sedimentation controls and tree protection measures comply with the Environmental Criteria Manual; and
 - (b) Present a plan to the inspector that includes future erosion and sedimentation controls, drainage, utility, and street layout.
 - (3) Construction under a site plan or subdivision construction plan may not begin unless the director:
 - (a) Determines that the erosion and sedimentation controls and tree protection measures comply with City standards, as required by Subsection (B)(2); or
 - (b) Does not conduct an inspection on or before the fifth day after receiving the request.
- (C) **Changes to Erosion Control Sequencing.** After two days' notice to the permittee, the inspector may modify the approved erosion control and construction sequencing if the director determines the plans are inadequate.

23-2H-1060 Reinspection Fee

- (A) The director may charge a reinspection fee if, at the time the director attempts to conduct an inspection, the permittee:
 - (1) Has not finished the work to be inspected;
 - (2) Has not finished corrections previously required by an inspector;
 - (3) Has not posted the record inspection card;
 - (4) Does not make approved plans readily available to the inspector; or
 - (5) Does not provide access to the work on the scheduled inspection date.
- (B) Work that was rejected at the first inspection for failure to comply with a technical code may be reinspected without payment of a reinspection fee.
- (C) If a reinspection fee is due, additional inspections may not be performed until the reinspection fee is paid.

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Division 23-2H-2: Subdivision Construction

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23-2H-2010 Distribution of Approved Plans

The director shall distribute two copies of the released subdivision construction plans and approved plan revisions to City departments responsible for inspections.

23-2H-2020 Substantial Completion Notice

- (A) Within 10 days before work under a subdivision construction plan is finished, the permittee shall notify the director in writing that the work is substantially complete and request a list of work to be complete.
- (B) On the day that the permittee provides notice under Subsection (A), the consulting engineer will submit a construction summary report to the director.

23-2H-2030 Final Inspection

- (A) Not later than four days after the applicant gives written notice that work performed under a subdivision construction plan is substantially complete, the director must review the work and prepare a report identifying:
 - (1) Work that does not comply with the construction plans; and
 - (2) Work that must be performed before the final acceptance letter is issued.
- (B) When the permittee finishes the work listed in the report issued under Subsection (A), the director shall modify the report to reflect that the required work is completed.

23-2H-2040 Acceptance by the City

- (A) **Purpose and Applicability.** This section establishes requirements for the City's final acceptance of infrastructure and other improvements completed under a subdivision construction plan.
- (B) **On-site Meeting.** Before acceptance of work performed under a subdivision construction plan, the director shall schedule a final acceptance meeting at the site and shall invite appropriate parties, including the permittee, design engineer, and contractors, as well as staff from affected utility providers and City departments.
- (C) **Final Acceptance Letter.** The director shall issue the final acceptance letter only after:
 - (1) Work identified in the director's report is complete;
 - (2) The following items have been submitted:
 - (a) Construction summary report;
 - (b) Design engineer's concurrence letter;
 - (c) Reproducible plans, certified "as built" by the design engineer;
 - (d) Required one-year warranty bonds;
 - (e) Appropriate forms of payment for balances due, if any; and
 - (3) If the applicant executed a developer contract, the conditions of the contract have been satisfied.
- (D) If the applicant has not satisfied all requirements, the director shall issue a list of requirements that the applicant must satisfy.

Division 23-2H-3: Site Construction and Inspection

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23-2H-3010 Onsite Retention of Approved Plans

The permittee shall retain copies of the approved plans at the site until all required inspections have been completed and the director determines that the development complies with this Title.

23-2H-3020 Grading, Drainage, and Water Quality Facilities

- (A) During construction, the director shall inspect land grading, drainage, detention and water quality control facilities to determine whether the facilities comply with the released site plan.
- (B) After completion of land grading, drainage, detention, and water quality control facilities, the design engineer must submit a letter to the director stating that the project substantially complies with the approved construction plans before requesting final inspection.
- (C) The director shall perform final inspection of the facilities after the design engineer submits the certification letter required under Subsection (B).
- (D) The director may issue a certificate of occupancy or certificate of compliance only if:
 - (1) The land grading, drainage, detention, and water quality control facilities have been completed according to the approved plans and comply with the requirements of this Title and all applicable administrative criteria manuals; or
 - (2) Except in the Barton Springs Zone, before construction is complete if:
 - (a) The director determines that the unfinished work is minor and that all site facilities can, as constructed, perform the functions for which they are required; and
 - (b) The permittee executes an agreement, on a form prescribed by the director, requiring completion of all unfinished construction and posts fiscal surety in an amount and duration required by the director.

23-2H-3030 Connection of Utilities

- (A) Except as provided in Subsection (B), City utilities may be provided to a property if:
 - (1) For property located in the zoning jurisdiction, the director issues a certificate of occupancy for the building; or
 - (2) For a property located in the extraterritorial jurisdiction, the director issues a certificate of compliance for the development and signs a final acceptance letter for the subdivision infrastructure.
- (B) If required erosion and sedimentation controls are complete, the director may authorize a temporary electrical connection:
 - (1) To test building service equipment before a certificate of occupancy or certificate of compliance has been issued; or
 - (2) To provide electrical service to a building for which a temporary certificate of occupancy has been issued.

Division 23-2H-4: Certificates of Compliance and Occupancy

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23-2H-4010 Certificate Required

- (A) In the zoning jurisdiction and in a municipal utility district that has a consent agreement with the City requiring the issuance of a building permit, a person may not use, occupy, or change the existing use or occupancy of a structure unless the building official has issued a certificate of occupancy for the structure.
- (B) In the planning jurisdiction:
 - (1) For development that requires a site plan, a person may not use or occupy the development included in the site plan unless the director has issued certificates of compliance for the site plan and subdivision infrastructure; and
 - (2) For development that does not require a site plan, a person may not use or occupy a structure unless the director has issued a certificate of compliance for the subdivision infrastructure.

23-2H-4020 Certificate of Occupancy

- (A) Except as provided in Section 23-2H-4040 (Temporary Certificate of Occupancy), the building official shall issue a certificate of occupancy if:
 - (1) The development has passed required inspections;
 - (2) The permittee provides required fiscal surety, if applicable ;
 - (3) The development has been completed in compliance with:
 - (a) The released site plan and other approved construction plans, as applicable; and
 - (b) All applicable provisions of this Title, except as provided under Section 23-2F-2030 (Exempt Residential Uses and Structures), and with any separately adopted ordinance requirements; and
 - (4) The building official has signed a final acceptance letter for any required subdivision infrastructure or, if applicable, the permittee has executed a developer agreement approved by the director.

23-2H-4030 Certificate of Compliance

- (A) For development completed under a released site plan, the director shall issue a certificate of compliance if the development complies with the site plan and with all applicable requirements of this Title.
- (B) For subdivision infrastructure, the director shall issue a certificate of compliance if:
 - (1) In the extraterritorial jurisdiction, the director has signed a final acceptance letter; or
 - (2) In the zoning jurisdiction, the director has signed a final acceptance letter or, if applicable, the permittee has executed a developer agreement approved by the director.

23-2H-4040 Temporary Certificate of Occupancy

- (A) A person may file an application with the building official for:
 - (1) A temporary certificate of occupancy, for a building or structure that does not meet the requirements of Section 23-2H-4020 (Certificate of Occupancy); or
 - (2) A temporary certificate of retail occupancy, for a retail occupancy associated with a temporary use permit for a retail use approved under Section 23-4B-1050 (Temporary Use Permit).
- (B) The building official may issue a temporary certificate of occupancy if the building official determines that the proposed use or occupancy is not a hazard to life, health, or public safety.
- (C) The director may adopt rules or guidelines for the issuance of temporary certificates under this section, including limitations on the duration and number of temporary certificates that may be issued for a project.

Article 23-2I: Appeals

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23-2I-1010 Purpose, Applicability, and Review Authority

- (A) This article establishes uniform procedures for the initiation, conduct, and disposition of administrative appeals authorized under this Title.
- (B) The purpose of these requirements is to fairly accommodate appeal rights of persons aggrieved by City decisions, while also ensuring that appeals are conducted fairly and expeditiously in a manner that protects the rights of all parties and ensures finality in development permitting and other land use decisions.
- (C) The Development Services Director is the delegated authority responsible for administering the requirements of this article and is hereafter referred to as “the director.”

23-2I-1020 Appeal of Administrative Decisions

- (A) A person may appeal an administrative decision only if **the requirements of this subsection are met.**
 - (1) The person **must be:**
 - (a) An interested party under Section 23-2C-2020 (Interested Parties); or
 - (b) For an appeal to the Board of Adjustment, qualifies as an aggrieved party under the Texas Local Government Code, Chapter 211; and
 - (2) **A right of appeal for the decision must be specifically provided by this Title. Examples appeals authorized under this Title include:**
 - (a) **Appeals of discretionary land use approvals under Division 23-4B-1 (Land Use Approvals);**
 - (b) **Appeals of administrative decisions related to zoning regulations under Division 23-4B-2 (Code Interpretations and Use Determinations);**
 - (c) **Appeals of technical code interpretations under Section 23-1B-2050 (Technical Code Boards); and**
 - (d) **Appeals of enforcement orders under Division 23-2J-4 (Appeal Procedures).**
 - (3) The person provides comments, if required under Subsection (B); and
 - (4) A notice of appeal under Section 23-2I-2010 (Notice of Appeal) is submitted not later than the 14 or 20-day deadline specified under Section 23-2I-1030 (Deadline for Appeal).

- (B) To appeal an administrative decision for which public notice is provided under this Title, a person must have provided comments regarding the decision as required by this subsection.
 - (1) For a matter that is subject to a public hearing before a board or commission, a person must communicate an interest in the matter that is the subject of a public hearing by:
 - (a) Delivering a written statement that generally identifies the issues of concern to the body conducting the hearing, either before or during the public hearing; or
 - (b) Appearing and speaking on the record at the public hearing.
 - (2) For a matter that is subject to an administrative decision that requires notice under Section 23-2C-5010 (Notice of Application), a person must communicate an interest in the matter by delivering a written statement to the director that:
 - (a) Generally identifies the issues of concern;
 - (b) Includes the person's name, telephone phone number, and mailing address; and
 - (c) Is delivered before the earliest date on which action on the application may occur.
 - (3) Written comments provided under this subsection are considered to be delivered to the director on the date that the comments are:
 - (a) Received by the body conducting a public hearing or, for an administrative decision, director or designated case manager; or
 - (b) Submitted by email, if authorized by the director.

23-2I-1030 Deadline for Appeal

- (A) To appeal an administrative decision, a notice of appeal that meets the requirements of this division and Section 23-2I-2010 (Notice of Appeal) must be filed with the director no later than:
 - (1) 14 days after the date of:
 - (a) An appealable decision by a board or commission; or
 - (b) An appealable administrative decision for which notice is required to be provided under Section 23-2C-5020 (Notice of Administrative Decision); and
 - (2) 20 days after an appealable administrative decision for which notice is not required.
- (B) The director may not accept an appeal submitted past the deadline required by this section.

23-2I-1040 Development Not Permitted During Appeal

- (A) Development under an approved site plan may not occur during the time period in which an appeal of the site plan may be initiated under Section 23-2I-1030 (Deadline for Appeal), except for site clearing.

- (B) Development under a site plan or building permit that is subject to an administrative appeal may not occur pending final disposition of the appeal, except for development activity that:
 - (1) Is necessary to protect public health and safety, as determined by the building official; or
 - (2) Is limited to site clearing and minor construction that is unaffected by the issues under appeal.
- (C) A site plan or building permit is automatically suspended on the timely filing of an appeal of the site plan or building permit under this article. The director may post a stop work order on the property, if necessary, to enforce this requirement.

23-2I-1050 Appeals Process and Forms

The director shall designate one or more department staff to receive administrative appeals and shall make relevant information regarding the appeals process, including forms required by Section 23-2I-2010 (Notice of Appeal), available on the City's website.

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Division 23-2I-2: Initiation and Processing of Appeals

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23-2I-2010 Notice of Appeal

- (A) To initiate an appeal under this article, a notice of appeal must be filed on a form prescribed by the director and must include:
 - (1) The name, address, and telephone number of the appellant;
 - (2) The name of the applicant, if the decision sought to be appealed is a site plan or building permit and the appellant is not the applicant;
 - (3) The decision being appealed and the date of the decision;
 - (4) A brief description of the appellant's status as an interested party under Section 23-2C-2020 (Interested Parties) or, for an appeal to the Board of Adjustment, a description of how the appellant is aggrieved by the decision;
 - (5) A statement of the reasons the appellant believes the decision does not comply with the applicable code requirements or approval criteria, including citations to relevant provisions of this Title; and
 - (6) An appeal fee established by separate ordinance.
- (B) A notice of appeal may not be accepted as timely unless it meets the requirements in Subsection (A) on or before the deadline provided under Section 23-2I-1030 (Deadline for Appeal). The director shall allow an appellant to supplement a notice of appeal after the applicable deadline has passed only if the additional information is not required to satisfy the requirements of this section.

23-2I-2020 Assignment of Appeals Board

- (A) After accepting a notice of appeal under Section 23-2I-2010 (Notice of Appeal), the director shall assign the appeal to the appropriate board in accordance with this section.
- (B) An appeal that challenges the director's interpretation or application of Chapter 23-4 (Zoning), or a separately adopted zoning ordinance, shall be heard by the Board of Adjustment.
- (C) An appeal that challenges the director's interpretation or application of technical codes, as adopted under Chapter 23-11 (Technical Codes), shall be heard by the Building and Fire Code Board of Appeals or other appropriate technical code board, as determined by the director.

- (D) An appeal that challenges the director's interpretation of requirements other than zoning regulations or technical codes shall be heard by the Land Use Commission.
- (E) If an appeal challenges the director's interpretation or application of multiple codes falling within the jurisdiction of more than one body, the director may divide the appeal into separate cases and assign each case to the appropriate board.
- (F) An appeal heard by the city council shall be assigned to the council **consistent with applicable procedures**.

23-2I-2030 Meeting to Resolve Issues

If requested by an interested party, the responsible director shall schedule a meeting to discuss and attempt to resolve the issues raised by an appeal of an administrative decision. The responsible director shall notify all interested parties of a meeting scheduled under this section. All interested parties may attend the meeting.

23-2I-2040 Tolling and Correction of Application

- (A) A timely filed appeal tolls the expiration period for the application or approval associated with the decision under appeal.
- (B) An applicant for a site plan or building permit that is subject to appeal may process changes to the application as an administrative correction, without further notification, to address issues raised in an administrative appeal or by comments submitted by interested parties under Section 23-2I-1020 (Appeal of Administrative Decisions).

23-2I-2050 Ex Parte Contacts Prohibited

- (A) A member of a board or commission assigned to hear an appeal under Section 23-2I-2020 (Assignment of Appeals Board) shall follow the requirements of this section before final disposition of the appeal and the expiration of any applicable period for seeking reconsideration or judicial review. This section does not apply to an appeal of a conditional use permit to the city council or a minor use permit to the Land Use Commission.
- (B) A board or commission member may not communicate regarding issues relevant to an **appeal** with interested parties or members of the public outside of a public meeting. Communications with a staff or executive liaison designated under Section 2-1-7 (Staff Support) or with legal counsel are permitted.
- (C) A board or commission member that receives material information regarding an appeal that is not made available to other board members and to interested parties is disqualified from participating in the case unless the board member publicly discloses the information and its source as soon as reasonably possible.
- (D) A board or commission member may disqualify him or herself if an interested party or other individual has sought to influence the member's vote other than at a public meeting on the appeal.
- (E) A board member may not investigate an appeal other than making routine site visits.

Division 23-2I-3: Notification and Conduct of Public Hearing

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23-2I-3010 Notification of Applicant and Presiding Officer

- (A) The director shall notify an applicant in writing if an interested party has provided comments under Section 23-2I-1020 (Appeal of Administrative Decisions) on a pending application for which a right of appeal is provided under this Title. If practicable, the notification shall be provided before the responsible director approves or denies the application.
- (B) On receipt of a timely filed notice of appeal under Section 23-2I-1030 (Deadline for Appeal), the director shall promptly notify the applicant, if the applicant is not the appellant, and the presiding officer or staff liaison of the body to which the appeal is assigned.

23-2I-3020 Scheduling and Notice of Public Hearing

- (A) A public hearing on an appeal shall be scheduled for the first available meeting for which notice of the hearing can be timely provided, except that a permit holder may agree to a later date if a permit or other development approval is appealed by an interested party or is subject to suspension or revocation under Division 23-2J-2 (Suspension and Revocation).
- (B) If an appeal challenges a development approval or other administrative decision associated with a particular address, the responsible director shall provide notice of the public hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice).
- (C) If an appeal challenges a code interpretation or other administrative decision that is not associated with a particular address, the responsible director shall provide notice of the public hearing under Section 23-2C-4040 (Type 2 Public Hearing Notice).
- (D) If an appeal concerns issues with potential to affect particular individuals or groups who are not parties to the appeal or otherwise entitled to notification, the director may provide additional notice to those individuals or groups.

23-2I-3030 Prehearing Submittals

- (A) The executive liaison designated under Section 2-1-7 (Staff Support) for a board or commission with authority to hear an administrative appeal shall establish an orderly process for the submittal of materials to be considered at a public hearing on an appeal. The process must be posted on the City website along with the appeal forms and other materials as required by Section 23-2I-1050 (Appeals Process and Forms).
- (B) The process adopted under this section must, to the greatest extent possible, require that materials be submitted in a timely manner so that parties to the appeal and members of the board have an opportunity review the materials in advance of the public hearing.

23-2I-3040 Staff Report and Case File

- (A) The responsible director shall submit a staff report to the board liaison before an appeal hearing, consistent with guidelines adopted under Section 23-2I-3030 (Prehearing Submittals). The report must explain the basis of the responsible director's decision and reference relevant documents in support of the decision.
- (B) A use determination issued by the Planning Director under Section 23-4B-2020 (Use Determinations) or a code interpretation issued under Section 23-4B-2010 (Code Interpretations) satisfies the requirement for a staff report under Subsection (B). A supplemental report may be provided, but is not required.

23-2I-3050 Conduct of Appeal Hearing

- (A) Before opening a public hearing, a body hearing an appeal shall decide any preliminary issues raised by the parties, including requests:
 - (1) To postpone or continue the hearing; or
 - (2) To allow the submittal of evidence not timely provided to the board liaison as required by Section 23-2I-3030 (Prehearing Submittals).
- (B) A public hearing on an appeal must be conducted to ensure a full airing of the relevant issues and to minimize irrelevant or redundant testimony. To the extent practicable, an appeal must follow the order prescribed in this subsection.
- (C) Presentations should occur in the following order if an appeal is brought by an applicant for a development approval, or other administrative decision, or by a party challenging the issuance of an enforcement order:
 - (1) A report from City staff explaining the basis of the director's decision;
 - (2) Comments by individuals in support of the director's decision;
 - (3) A main presentation by the appellant or the appellant's representative in opposition to the director's decision; and
 - (4) Comments by other individuals opposed to the director's decision.

- (D) Presentations should occur in the following order if an appeal is brought by an interested party, other than the applicant, challenging the approval of a permit or site plan:
 - (1) A report from City staff explaining the basis for the director's decision;
 - (2) A main presentation by the appellant or the appellant's representative in opposition to the director's decision;
 - (3) Comments by other individuals opposed to the director's decision;
 - (4) A main presentation by the permit applicant or the applicant's representative in support of the director's decision; and
 - (5) Comments by other individuals in support of the director's decision.
- (E) In conducting a public hearing under this section, the chair of a body considering an appeal:
 - (1) May impose appropriate time limits on testimony, provided that both parties to an appeal or their representatives are given approximately equal time;
 - (2) If an appeal is filed by multiple parties who share a common position, may require a consolidated presentation or limit the amount of time available to each appellant;
 - (3) May limit comments by non-parties to minimize irrelevant or redundant testimony; and
 - (4) Shall allow rebuttal by an appellant.

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Division 23-2I-4: Action on Appeal

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23-2I-4010 Action on Appeal

- (A) **Authority.** After closing a public hearing on an appeal, the body considering an appeal may uphold, modify, or reverse the decision under appeal. The body considering an appeal may exercise the authority of the decision-maker whose decision is under appeal, unless otherwise provided by this Title.
- (B) **Action.** In acting on an appeal, a board shall:
 - (1) State whether the decision is upheld, reversed, or modified; and
 - (2) Include other findings as may be required under this Title, the body's rules of procedure, or state law.

23-2I-4020 Appellate Burden

- (A) **General Standard.** Except as provided in Subsection (B), a body considering an appeal may not reverse or modify a decision under appeal unless the appellant establishes by substantial evidence that the decision is contrary to applicable regulations within the jurisdiction of the board considering the appeal.
- (B) **Standard for Enforcement Appeals**
 - (1) In considering an appeal of an enforcement order under Section 23-2J-4020 (Appeal of Enforcement Orders), the responsible director who issued the order bears the burden of proving the violations cited in the order by clear and convincing evidence.
 - (2) A board considering an appeal of an enforcement order may reverse or modify the order, as appropriate, if the responsible director fails to demonstrate the violations.

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Article 23-2J: Enforcement

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Division 23-2J-1: General Provisions

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23-2J-1010 Authority to Enforce

- (A) The Development Services Director, hereafter referred to as “the director,” and the building official, are delegated authority to administer this article and exercise the enforcement authority granted in this section.
- (B) This article authorizes the director or building official to suspend and revoke permits and other development approvals issued under this Title, and to order that construction activity stops, if the director or building official determines that a violation of this Title or a threat to public health, safety, and welfare exists.
- (C) In addition to the administrative remedies authorized under this article, the responsible director, building official, and other City staff charged with enforcement of this Title may take any lawful and appropriate action to prevent or abate the violation of this Title, including:
 - (1) Issuing municipal court citations;
 - (2) Instituting legal action in a court of competent jurisdiction; and
 - (3) Terminating utility service.

23-2J-1020 General Offenses and Violations

- (A) **Unpermitted Development Prohibited.** In addition to offenses and violations which are generally declared and established under Section 1-1-99 (Offenses; General Penalty) of the City code, it is an offense and a violation of this Title:
 - (1) To use, occupy, construct, alter, convert, or maintain any building or structure:
 - (a) For which a permit or other development approval required by this Title has not been properly issued; or
 - (b) In violation of a permit or other development approval issued under this Title.
 - (2) To use or develop land:
 - (a) For which a permit or other development approval required by this Title has not been issued; or
 - (b) In violation of a permit or other development approval issued under this Title.

- (B) **Conditions of Development Approval.** For purposes of Subsection (A), a violation of a permit or other development approval issued under this Title includes, but is not limited to, any use, occupancy, construction, alteration, or conversion that is inconsistent with:
- (1) Development approved by a permit or other development approval; or
 - (2) Any condition imposed on a permit or other development approval, whether or not the condition is codified or uncoded.

23-2J-1030 Criminal Offenses

- (A) A person who violates a provision of this Title commits a separate offense for each day the violation continues.
- (B) A person who violates this Title commits a misdemeanor punishable by a fine not to exceed \$2,000.
- (C) A culpable mental state is not required, and need not be proved, for fines of \$500 or less.
- (D) A person who violates Chapter 23-11 (Technical Codes) commits a misdemeanor punishable by a fine not to exceed \$2,000 and not less than:
- (1) \$150 for a first conviction;
 - (2) \$250 for a second conviction; and
 - (3) \$500 for a third or subsequent conviction.

23-2J-1040 Inspection and Entry

- (A) **Authority to Inspect and Enter.** A person must, as a condition to the issuance of any permit or development approval under this Title, agree to allow City inspectors to enter and inspect any land, facilities, and structures included in the permit application. Submittal of an application for a permit or other development approval that authorizes construction of structures or improvements shall be construed as a grant of authority to the responsible director or building official to enter on land subject to the application for purposes of enforcement and inspection in connection with an approved permit.
- (B) **Termination of Authorization.** The City's authorization to enter and inspect land, facilities, and structures under Subsection (A) stops when all inspections required for compliance with this Title have been approved and the responsible director or building official issues a final certificate of occupancy or certificate of compliance.
- (C) **Manner of Inspection and Entry.** In conducting inspections authorized by this section, a City inspector shall present the inspector's credentials and limit inspections to reasonable times at or near normal working hours, except in an emergency. If the premises are unoccupied, the inspector shall attempt to contact a responsible person before entering the property.

23-2J-1050 Copy of Approved Plans

- (A) **Released Site Plan.** A copy of a released site plan must be kept on the premises included in the site plan application until all required certificates of occupancy or certificates of compliance have been approved. A permittee or contractor shall keep a copy of the released site plan on-site and allow a City inspector to examine it on request.
- (B) **Right-of-Way Use Permit.** If work authorized by this Title requires a right-of-way use permit, the permittee or contractor shall keep a copy of the right-of-way use permit in an accessible place on the construction site or business premises during the period in which the permit authorizes use of the right-of-way. The permit must state the name of the site manager, supervisor, project superintendent, or prime contractor to be contacted by the inspector or police officer if problems exist.
- (C) **Evidence of Violation.** A permittee or contractor's failure to produce a copy of a released site plan or right-of-way use permit on request by a City inspector, as required by this section, is prima facie evidence that a site plan or right-of-way use permit does not exist.

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Division 23-2J-2: Suspension and Revocation

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23-2J-2010 Purpose and Applicability

- (A) This division establishes procedures by which the responsible director or building official may suspend or revoke a permit, or other development approval, to stop construction from occurring or continuing in violation of this Title and to terminate occupancy of a structure which violates this Title.
- (B) The purpose of these procedures is to prevent violations of this Title from occurring and, where violations exist, require permittees and landowners to take actions necessary to achieve compliance.
- (C) The procedures established in this division apply to all development approvals and permits issued under this Title, whether or not the permit or approval is specifically listed.

23-2J-2020 Suspension of Development Approval

- (A) **Authority to Suspend.** The director or building official may suspend a development approval issued under this Title, including an approved or released site plan, a building permit, a license, subdivision construction plans, variance or special exception, right-of-way use permit, or a certificate of occupancy, if the director or building official determines that:
 - (1) The site has been developed in a manner not authorized by the approval or otherwise in violation of this Title;
 - (2) The permit holder has not complied with a condition of the approval;
 - (3) The approval was secured with false or misleading information; or
 - (4) The approval was issued in error.

(B) Contents and Notice of Suspension

- (1) A suspension order issued under this section:
 - (a) Must generally describe the applicable grounds for the suspension under Subsection (A), including, but not limited to, the nature of any violations found to exist on the site or errors in development approvals previously issued;
 - (b) May include a notice of intent to revoke under Section 23-2J-2040 (Notice of Intent to Suspend or Revoke) if compliance is not achieved by a specified date; and
 - (c) May be tied to a stop work order posted on the site consistent with Section 23-2J-3010 (Stop Work Order).
- (2) The director or building official:
 - (a) Shall give notice of a suspension under this division in accordance with Division 23-2C-2 (Notice Requirements), by certified mail, return receipt requested; and
 - (b) May post the order at the affected property, if the suspension is associated with a stop work order issued under Section 23-2J-3010 (Stop Work Order).

(C) Effect of Suspension Order

- (1) Development may not occur on a site that is subject to a suspension order unless approved by the director or building official to protect public health and safety or to finish previously approved work that is unaffected by the violations cited in the order.
- (2) A suspension order is effective immediately on mailing or posting under Subsection (B)(2) and remains in effect unless lifted by the responsible director or building official.

- (D) Corrections or Revisions Authorized.** The director or building official may allow an applicant to make corrections or revisions to a site plan or other development approval that is subject to a suspension order under this section, as needed to achieve compliance with the requirements of this Title.

23-2J-2030 Revocation After Suspension

- (A) Authority to Revoke.** The director or building official may immediately revoke a permit or other development approval that has been suspended under Section 23-2J-2020 (Suspension of Development Approval) if the director or building official determines that the permittee or landowner:
- (1) Did not comply with the applicable requirements of this Title by the date required under Section 23-2J-2040 (Notice of Intent to Suspend or Revoke) or, if a compliance date was not specified, within a reasonable time as determined by the director or building official; or
 - (2) During the suspension, did not comply with other requirements of this Title besides those cited in the original suspension.
- (B) Contents and Notice of Revocation.** A revocation order must include the same information and be mailed or posted in the same manner as a suspension order under Subsection 23-2J-2020(B) (Contents and Notice of Suspension).

- (C) **Effect of Revocation.** A permit or other development approval that is revoked under this section is void and may not be reactivated or corrected, except as provided under Section 23-2J-4020 (Appeal of Enforcement Order). Following issuance of a revocation order, no corrections can be made to the permit or other development approval to which the revocation applies and a new application is required to further develop the property.

23-2J-2040 Notice of Intent to Suspend or Revoke

- (A) The director or building official may give written notice to the person affected of the official's intent to suspend or revoke a permit or other development approval issued under this Title.
- (B) A notice of intent issued under this section:
- (1) Must explain the basis for suspension or revocation and specify the corrective actions required to achieve compliance with this Title; and
 - (2) May specify a reasonable time in which corrective actions must be taken to avoid suspension or revocation.
- (C) If a notice of intent issued under this section specifies a time for compliance, the director or building official may not issue a suspension or revocation order before the time for compliance has expired. The director or building official may extend the time for compliance provided in notice of intent for good cause, including demonstrated efforts by a landowner or permittee to achieve compliance with this Title.

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Division 23-2J-3: Enforcement Orders

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23-2J-3010 Stop Work Order

- (A) **Authority to Stop Work.** If the director or building official determines that a person required to obtain a site plan, building permit, subdivision construction plan, or other development approval has not complied with a requirement of this Title, the director or building official may issue a stop work order requiring the person to stop the development of, or transportation of construction material, to the site until the person complies with the requirements of this Title.
- (B) **Contents and Notice of Stop Work Order.** A stop work order must generally describe the violations of this Title found to exist and the actions required to achieve compliance. The director or building official shall post the stop work order at the affected property and mail a copy of the order to the permittee or landowner.
- (C) **Effect of Stop Work Order.** Except for remedial actions authorized by the director or building official under Subsection (D), the limitations established in this Subsection apply immediately on posting a stop work order and remain effective until the order is lifted by the director or building official.
- (1) While a stop work order remains in effect a City inspection may not be performed, work requiring an inspection may not be approved, and a person may not connect a utility at the site.
 - (2) If a stop work order is based on a failed inspection, a person may not further develop the site unless the development passes a re-inspection and the stop work order is lifted.
 - (3) If a stop work order is based on a pending appeal under Article 23-2I (Appeals), a person may not further develop the site unless the appeal is finally resolved and the stop work order is lifted.
 - (4) If a stop work order is based on a health or safety hazard, a person may not further develop the site unless the responsible director or building official determines that the development complies with the requirements of this Title and the stop work order is lifted.

- (5) If a stop work order is based on a violation of the requirements of this Title for a right-of-way use permit, the order must:
 - (a) State that no work may be performed at the site if traffic is obstructed, unless the person obtains a right-of-way use permit;
 - (b) State that noncompliance may result in the immediate removal of an obstruction from the right-of-way and the arrest of an equipment operator; and
 - (c) Require the immediate removal of an obstruction or traffic control device in the public right-of-way.
- (D) **Remedial Actions Authorized.** While a stop work order remains in effect, the director or building official may allow a permittee or landowner to take actions required to secure the site and to achieve compliance with requirements of this Title necessary to protect public health and safety.

23-2J-3020 Order to Remove or Restore

- (A) **Authority to Require Removal or Restoration.** If the building official determines that building service equipment regulated by Chapter 23-11 (Technical Codes) is hazardous to life, health, or property, the building official may order that the equipment be removed or restored to a safe condition.
- (B) **Contents and Notice of Order to Remove or Restore**
 - (1) A restoration or removal order issued under this section must generally describe the violations found to exist, the actions required to comply, and the date by which compliance must be achieved.
 - (2) The building official shall post a restoration or removal order at the affected property and mail a copy of the order to the permittee or landowner.
- (C) **Effect of Order to Remove or Restore.** If a removal or restoration order is posted under this section, a person may not use or maintain building service equipment unless the building official lifts the order.

23-2J-3030 Order to Clear Public Right-of-Way

- (A) If a person fails to comply with Chapter 23-9B (Right-Of-Way and Transportation Improvements), or with the terms of a right-of-way use permit issued under that chapter, a police officer may order the person to immediately stop obstructing traffic and remove the obstruction from the public right-of-way. The police officer may:
 - (1) Impound a vehicle, machinery, or equipment;
 - (2) Order the driver to proceed to the Police Department;
 - (3) Remove a barricade or traffic diverting device;
 - (4) Issue a citation to a person who authorized or caused the violation; and
 - (5) Arrest a person who does not comply with the order.
- (B) A warning under this section is effective immediately and may be made orally or in writing.

Division 23-2J-4: Appeal Procedures

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23-2J-4010 Purpose and Applicability

- (A) This division establishes procedures for administrative appeals of suspensions, revocations, stop work orders, and other enforcement actions authorized under this article. These procedures give due process to property owners and other persons affected by the issuance of enforcement orders, while ensuring that decisions regarding the validity of development approvals are resolved in a timely and efficient manner.
- (B) An appeal of an enforcement action initiated under this article must meet the requirements of Division 23-2I (Appeals), except as provided in this division.

23-2J-4020 Appeal of Enforcement Orders

- (A) **Right to Appeal.** A person who is subject to a suspension, revocation, stop work order, or other order under this article may appeal the order consistent with the requirements of this section. A warning letter or a notice of intent issued under Section 23-2J-2040 (Notice of Intent to Suspend or Revoke) may not be appealed.
- (B) **Requirements for Appeal**
 - (1) An appeal of an enforcement order under this article must be initiated and processed in the manner provided under Article 23-2I (Appeals). The director or building official shall assign an appeal to the appropriate board or commission, as determined under Section 23-2I-2020 (Assignment of Appeals Board).
 - (2) The 14-day appeal deadline required under Section 23-2I-1030 (Deadline for Appeal) begins to run on:
 - (a) The date the director or building official decides a request for reconsideration under Subsection (C); or
 - (b) If reconsideration is waived or is not requested, the later of the following dates:
 - (i) The date the order is received by the permittee or landowner; or
 - (ii) The date the order is posted at the property.

- (C) **Reconsideration Before Appeal.** A person must request that the director or building official reconsider an enforcement order before the order may be appealed to a board or commission, except as provided in Subsection (C)(4).
- (1) A request for reconsideration must be delivered to the director or building official not later than the third day after the order is posted at the property or received by the permittee or landowner. The notice must identify the name of the permittee or landowner, the order for which reconsideration is sought, and the reasons the permittee believes the order is incorrect or was issued erroneously.
 - (2) The director or building official shall schedule a hearing with the permittee or landowner for not later than the third day after reconsideration is requested, unless the applicant waives the right to a hearing or agrees to a later date. At the hearing, the landowner or permittee and City staff may offer testimony regarding the order for which reconsideration is requested.
 - (3) The director or building official shall affirm or reverse the order under review not later than the second working day after the hearing. The director or building official shall give written notice of the decision and a statement or reasons to the permittee or landowner.
 - (4) The director or building official may waive the requirement to request reconsideration under this subsection or may extend the three-day deadline based on good cause shown.
- (D) **Consolidation of Related Appeals**
- (1) If a stop work order is associated with a suspension or revocation order, an appeal of the stop work order or the suspension or revocation order constitutes an appeal of both orders and the cases shall be heard as a consolidated appeal.
 - (2) A stop work order may not be separately appealed if it is posted under Section 23-2I-1040 (Development Not Permitted During Appeal) to prohibit development pending final disposition of an appeal of the site plan or building permit associated with the property.

23-2J-4030 Notice and Hearing on Enforcement Appeal

- (A) Unless the appellant agrees to a later time, the director or building official shall schedule a public hearing on an enforcement appeal before the appropriate board or commission no later than the next regular meeting for which notice may be timely provided under Subsection (B).
- (B) Notice of a hearing on an appeal shall be given by mailing notice 10 business days before the date of the hearing to:
 - (1) The appellant;
 - (2) The notice owner of the subject property, if any; and
 - (3) Individuals or organizations who made complaints leading to issuance of the enforcement order or who have registered an interest in the matter.
- (C) A board hearing an appeal under this section is subject to Section 23-2I-2050 (Ex Parte Contacts Prohibited) and shall conduct the hearing under Section 23-2I-3050(C) (Conduct of Appeal Hearing).

23-2J-4040 Action by Board on Enforcement Appeal

- (A) **Action on Appeal.** After conducting a hearing under Section 23-2J-4030 (Notice and Hearing on Enforcement Appeal), the board shall:
 - (1) Uphold the order, if the board finds that each violation alleged in the order is supported by substantial evidence;
 - (2) Modify the order, if the board finds that some of the violations alleged in the order are supported by substantial evidence and others are not;
 - (3) Reverse the order, if the board finds that none of the violations alleged in the order are supported by substantial evidence; or
 - (4) Postpone action on the appeal to allow the appellant additional time to comply or for other reasons as the board considers just.
- (B) **Limitations on Board Authority.** A body considering an appeal under this section may only exercise the authority of the official whose decision is appealed, except as provided in Subsection (C).
- (C) **Board of Adjustment Variance or Special Exception.** In addition to the actions authorized under Subsection (A), the Board of Adjustment may grant a variance or special exception under Division 23-4B-4 (Criteria for Variances and Special Exceptions) for any zoning regulation alleged to be violated by the order under appeal.
- (D) **Effect of Action Upholding Suspension.** If a board acts to uphold a suspension or revocation order under Subsection (A), the permit or other approval subject to the order is automatically revoked without further action by the director or building official.

23-2J-4050 Compliance Pending Appeal

- (A) Before final action by a board assigned to hear an appeal under Section 23-2I-2020 (Assignment of Appeals Board), the director or building official may attempt to resolve the alleged violations by meeting with the appellant or other parties with an interest in the matter, conducting site inspections, or taking other actions considered appropriate to achieve compliance.
- (B) If the director or building official determines that compliance has been achieved, the director may rescind the order and withdraw the matter from consideration by the board previously assigned to hear the appeal.
- (C) If the director or building official determines that partial compliance has been achieved or that additional violations exist on the property, the director may amend the original order to:
 - (1) Eliminate violations alleged in the original order; or
 - (2) No later than three days before a hearing scheduled on the appeal, add additional violations not cited in the original order.

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Article 23-2K: Vested Rights

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Division 23-2K-1: Petition and Review Procedures

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23-2K-1010 Definitions

This section defines words and phrases that are used primarily in this chapter. For words and phrases used generally throughout this Title, see Article 23-13A (Definitions and Measurements).

- (1) In this article, "permit," "project," and "regulatory agency" have the meanings assigned to them by Chapter 245 of the Local Government Code.
- (2) TYPE 1 Chapter 245 (Issuance of Local Permits) PETITION. A vested rights petition that alleges rights under Chapter 245 (Issuance of Local Permits) of the Local Government Code to develop property under ordinances, regulations, or rules other than those in effect on the date the permit application is submitted.
- (3) TYPE 2 (CONTINUING USE) PETITION. A vested rights petition that alleges rights under Section 43.002 (Continuation of Land Use) of the Local Government Code to continue or begin a land use that was begun or planned before annexation of the land by the City of Austin.
- (4) VESTING DATE. The date on which a project accrued development rights under Chapter 245 (Issuance of Local Permits) or use rights under Section 43.002 (Continuation of Land Use) of the Local Government Code.
- (5) VESTED RIGHTS. A right conferred by state law to develop property under ordinances, regulations, or rules other than those in effect on the date a permit application is submitted. The term includes statutory development rights under Chapter 245 (Issuance of Local Permits) and use rights under Section 43.002 (Continuation of Land Use) of the Local Government Code, but does not include a right existing under common law.
- (6) VESTED RIGHTS PETITION or PETITION. A petition requesting a determination of development rights under Chapter 245 (Issuance of Local Permits) or use rights under Section 43.002 (Continuation of Land Use) of the Local Government Code.

23-2K-1020 Purpose and Applicability

- (A) This article establishes requirements for determining whether a project is entitled to vested rights under Chapter 245 (Issuance of Local Permits) or Section 43.002 (Continuation of Land Use) of the Local Government Code. To the extent a project is entitled to vested rights, a permit necessary to initiate, continue, or complete the project may be exempt from current regulations.
- (B) The purpose of this article is to:
 - (1) Establish a clear and consistent process for evaluating vested rights claims;
 - (2) Ensure that vested rights determinations are based on accurate and complete information, including the nature and scope of the original project for which vested rights are asserted and actual development, if any, that has occurred over time; and
 - (3) Recognize legitimate claims of vested rights under state law, while ensuring that new development complies to the greatest extent possible with current regulations.
- (C) This article applies within the planning jurisdiction, and is administered by the Development Services Director, which is hereafter referred to as "the director."

23-2K-1030 Vested Rights Petition Required

A petition for vested rights that meets the standards of Section 23-2K-1040 (Contents of Vested Rights Petition) must be submitted by a landowner or a landowner's agent to request that an application for a permit be reviewed under ordinances, regulations, or rules other than those in effect on the date the application is filed.

23-2K-1040 Contents of Vested Rights Petition

- (A) Except as provided in Subsection (B), a petition for vested rights required by Section 23-2K-1030 (Vested Rights Petition Required) must be submitted on a form approved by the responsible director and must include, at a minimum, the following information:
 - (1) Reference to one of the following applications, which must be submitted concurrent with the vested rights petition:
 - (a) A permit application for development of the property;
 - (b) A development plan, on a form provided by the responsible director, that establishes the nature of the permit sought, including the scope and intensity of proposed development and the type of land use, but need not include construction-level detail; or
 - (c) A development assessment, as authorized under Section 23-2B-2050 (Development Assessment).
 - (2) A summary of the basis on which the applicant claims vested rights;

- (3) The date on which the applicant claims that vested rights accrued and any permit or fair notice application that was submitted on that date; and
- (4) A complete chronological history of the project for which vested rights are claimed, including:
 - (a) A list of permits for development of the property, along with supporting documents, that were issued or applied for after the date the applicant claims that vested rights accrued;
 - (b) A description of any permitted or unpermitted development that occurred on the property after the date the applicant claims that vested rights accrued;
 - (c) A description of existing development on the property, regardless of whether the development is permitted or unpermitted;
 - (d) A list of all annexations and zoning changes affecting the property, if any;
 - (e) Any covenants, conditions, or restrictions recorded in the deed records for the property; and
 - (f) If considered relevant by the director, evidence regarding progress towards completion of the project under Section 23-2K-3040 (Dormant Projects).
- (B) The director may allow an applicant to omit information required under this section if, in the sole judgment of the director, an application is associated with a project for which vested rights have been conclusively established by an earlier vested rights determination, by a court order, or by a settlement agreement, or project consent agreement approved by the council.

23-2K-1050 Fair Notice Application

- (A) A fair notice application may be used in lieu of a permit application to establish vested rights for a new project.
- (B) The responsible director shall adopt a fair notice application, which may be used to establish a vesting date for a new project that is filed for review under current regulations and for which no earlier permits have been sought. The application must include a proposed plan for development of the property, including the scope and intensity of development and the nature of the land use, but need not include construction-level detail.
- (C) Acceptance of a fair notice application does not authorize construction or have any effect other than that prescribed by this article.

23-2K-1060 Completeness Review for Vested Rights Petition

A vested rights petition and associated development permit or fair notice application are treated as a single application for purposes of completeness review and expiration under Division 23-2B-1 (Application Requirements).

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Division 23-2K-2: Vested Rights Determinations

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23-2K-2010 Vested Rights Determination

- (A) **Deadline for Determination.** No later than 10 business days after acceptance of a complete vested rights petition, the director shall review the petition under Section 23-2K-2020 (Criteria for Approval) and make a determination consistent with the requirements of this section.
- (B) **Action on Petition**
- (1) In making a determination on a vested rights petition, the director may:
- (a) Approve the petition and require the development applications necessary to initiate, continue, or complete the project to be reviewed under regulations in effect on the vesting date, except for those regulations exempt from vesting under state law;
 - (b) Deny the petition and require the development application associated with the project to be reviewed under current regulations of this Title; or
 - (c) Approve the petition in part, if a project is legally entitled to some, but not all, of the rights asserted in the petition, or if a change in the scale or intensity of development is necessary to maintain conformity with the original project.
 - (d) **Except as otherwise provided by this Title, the director** may not waive or modify applicable regulations or provide relief not required by Chapter 245 (Issuance of Local Permits) or Section 43.002 (Continuation of Land Use) of the Local Government Code.
- (C) **Contents of Determination.** The director shall provide a written determination to the applicant, which must state:
- (1) Whether the petition is approved or denied, wholly or partly, and the basis for the decision;
 - (2) Findings of fact in support of the determination and information sufficient to identify the permit or fair notice application on which the petition is based; and
 - (3) If the petition is approved:
 - (a) A description of the project for which vested rights are recognized; and
 - (b) A vesting date.

- (D) **Reconsideration.** An applicant may request that the director reconsider a vested rights determination at any time before the application expires under Section 23-2B-1040 (Update and Expiration). A pending request for reconsideration tolls the expiration date, as provided in Section 23-2B-1050 (Tolling of Expiration Period), including the 45-day period for completeness review under Section 23-2B-1030 (Application Completeness).
- (E) **Administrative Remedies Not Affected.** A vested rights determination under this section does not affect the availability of a variance or other administrative remedy authorized by this Title.
- (F) **Posting of Vested Rights Determinations.** The director shall post vested rights petitions and vested rights determinations on the City's website.

23-2K-2020 Criteria for Approval

- (A) **Type 1 Petition.** The director shall review a Type 1 Chapter 245 (Issuance of Local Permits) petition for vested rights under the criteria described in this subsection.
 - (1) **General Standard.** A permit application is entitled to development rights under Chapter 245 (Issuance of Local Permits) of the Local Government Code if the permit is required to initiate, continue, or finish a project for which an earlier application was submitted to the City. An application is not entitled to development rights if it is unrelated to or inconsistent with the original project or if the original project has been finished, changed, or expired.
 - (2) **Review Criteria.** In determining whether a petition meets the standard for approval under this subsection, the director shall consider the following factors:
 - (a) The nature and extent of proposed development shown on the earlier permit or other application that initiated the original project on which the vested rights claim is based;
 - (b) Whether the permit application for which vested rights are claimed is related to and consistent with the original project;
 - (c) The nature and extent of earlier development of the property, including any permitting or construction activity that occurred after the vesting date requested by the applicant;
 - (d) Any earlier vested rights determinations made for development of the property; and
 - (e) Whether the project has expired under Division 23-2K-3 (Expiration), of this article or other applicable regulations.

- (B) **Type 2 Petition.** The director shall review a Type 2 (Continuing Use) petition for vested rights under the criteria described in this subsection.
- (1) **General Standard.** A permit application is entitled to use rights under Section 43.002 (Continuation of Land Use) of the Local Government Code to the extent that current regulations would prohibit:
- (a) Continuing to use the land in the manner in which it was being used on the date the annexation proceedings were instituted, if the land use was legal at that time; or
 - (b) Beginning to use land in the manner that was planned before the 90th day before the effective date of the annexation if:
 - (i) One or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and
 - (ii) A completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.
- (2) **Review Criteria.** In determining whether a petition meets the standard for approval under this subsection, the director shall consider the nature and extent of development that:
- (a) Occurred on the property before initiation of annexation proceedings, including photographs or other evidence substantiating the use; or
 - (b) Was proposed in one or more required applications submitted to a governmental entity.
- (3) **Date of Annexation.** For purposes of this subsection, annexation proceedings are considered to have been instituted on the date of the first public hearing before the council on the annexation ordinance for the property.
- (C) **Other Considerations.** The criteria in this section are intended to assist the director in reviewing Type 1 Chapter 245 (Issuance of Local Permits) and Type 2 (Continuing Use) petitions for vested rights, but do not limit the director from considering other factors relevant to the determination of rights for a particular project. The director may consider whether a project is entitled to common law vested rights if the project is not entitled to rights under Chapter 245 (Issuance of Local Permits) or Section 43.002 (Continuation of Land Use) of the Local Government Code.

23-2K-2030 Effect of Vested Rights Determination

If the director approves a vested rights petition, any permit required to initiate, continue, or complete the project shall be entitled to the development or continuing use rights recognized by the vested rights determination, unless the project expires under Division 23-2K-3 (Expiration) or other applicable regulations.

23-2K-2040 Project Consent Agreements

- (A) **Purpose and Applicability.** This section provides a voluntary mechanism for determining applicable regulations where the extent of a project's vested rights are unclear and for incentivizing projects with clearly established vested rights to achieve greater compliance with current regulations.
- (B) **Application Requirements.** An applicant may submit a request for a project consent agreement to the director, in writing, after the director issues a vested rights determination under Section 23-2K-2010 (Vested Rights Determination). The request must identify:
- (1) Current regulations for which compliance would be required, other than regulations exempt from vested rights protections under state law;
 - (2) Additional restrictions on the nature and intensity of the proposed development; and
 - (3) Any modifications or waivers requested as a condition to the agreement, including but not limited to provisions for the transfer or averaging of impervious cover to include additional property or changes to the original project that increase compatibility with adjacent land uses.
- (C) **Criteria for Recommendation**
- (1) The director may recommend a project consent agreement for approval to the council if the responsible director finds that the agreement achieves a greater degree of environmental protection and compatibility with adjacent land uses than would occur if a project developed to the full extent of vested rights that have been verified or are reasonably likely to exist for the project.
 - (2) In making a determination under this subsection, the director shall consider:
 - (a) The degree to which vested rights for the project have been established;
 - (b) The importance of particular regulations to achieving adopted planning goals or policies for the area in which the project is located; and
 - (c) A recommendation from the environmental officer regarding the environmental benefits of the proposed agreement, if vested rights from the regulations of Division 23-3D (Water Quality) and Article 23-3C (Urban Forest Protection and Replenishment) are asserted for the project.
- (D) **Recommendation Required.** The council may consider approval of a project consent agreement under this section only if the agreement is recommended by the director or initiated by the council. Before the council acts on a consent agreement, the director shall seek a recommendation from the Environmental Commission and the Land Use Commission, and the council shall hold a public hearing. The director shall provide notice of the hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice).
- (E) **Action on Project Consent Agreement.** In acting on a project consent agreement, the council may approve, deny, or modify the agreement based on the standard applicable to the director's review under Subsections (C) and (D). A project consent agreement may waive or modify site development regulations applicable to a project as deemed appropriate by the council.

- (F) **Inclusion of Development Agreement for ETJ Projects.** A project consent agreement for a project located in the extraterritorial jurisdiction may include a development agreement as authorized under Section 212.172 (Development Agreement) of the Local Government Code. The director shall review a proposed development agreement concurrent with an application for a project consent agreement, but council may consider the agreements separately or as a single agreement.
- (G) **Expiration.** A project consent agreement is subject to the expiration requirements provided in this subsection.
- (1) A project consent agreement expires on the 90th day after approval by the council, unless:
- (a) The applicant has submitted a complete site plan application for review by the director under the terms of the agreement; or
 - (b) In approving the agreement, the council authorizes a later expiration date.
- (2) Following submittal of a site plan application, a project consent agreement expires if:
- (a) The site plan application expires under Section 23-2B-1040 (Update and Expiration); or
 - (b) The site plan expires under Division 23-6C-1 (Expiration).

23-2K-2050 Administrative Guidelines

- (A) The director may adopt guidelines to assist in reviewing applications under Section 23-2K-2010 (Vested Rights Determination), Section 23-2K-2040 (Project Consent Agreements), and Section 23-2K-3030 (Managed Growth Agreements).
- (B) Guidelines adopted under this section may be used to help address common questions that arise in determining vested rights, including but not limited to:
- (a) Whether a permit application is required to continue, complete, or initiate the project for which vested rights are claimed;
 - (b) Whether the project for which vested rights are claimed has been completed, changed, or expired; and
 - (c) Whether progress towards completion of a project has been made under Section 23-2K-3040 (Dormant Projects).
- (C) Guidelines adopted under this section shall be posted on the department's website and made available to the public, but need not be adopted by administrative rule under Section 1-2 (Adoption of Rules) of the City code.

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Division 23-2K-3: Expiration

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23-2K-3010 General Expiration Requirements

- (A) A vested rights determination for a project approved under Section 23-2K-2010 (Vested Rights Determination) applies to any permit application required to initiate, continue, or complete the project.
- (B) If the vesting date approved for a project under Section 23-2K-2010 (Vested Rights Determination) is based on a permit application that is submitted on or after June 23, 2014, the project is subject to the expiration periods provided in Section 23-2K-3020 (Expiration of Projects Begun On or After June 23, 2014).
- (C) If all permits for a project expire, the project expires.
- (D) A permit application submitted after a project expires constitutes a new project and is subject to the current regulations of this Title, except:
 - (1) If a site plan associated with a project remains active at the time the project expires, the vested rights determination for the project applies to any application for a building permit necessary to complete construction of the site plan for as long as the site plan remains active; and
 - (2) If an application to extend a site plan associated with a project may be approved under Section 23-6B-3030 (Extension of a Released Site Plan).
- (E) The expiration of a project associated with a preliminary plan or a final plat does not affect the validity of a platted lot under this Title.

23-2K-3020 Expiration of Projects Begun on or After June 23, 2014

- (A) The project expiration period established by this section applies if the vesting date approved for a project under Section 23-2K-2010 (Vested Rights Determination) is based on a permit application that is submitted on or after June 23, 2014.
- (B) Except as provided in Subsection (C) or Section 23-2K-3010 (General Expiration Requirements), a project expires nine years after the vesting date approved for the project under Section 23-2K-2010 (Vested Rights Determination).

- (C) If the vesting date approved for a project under Section 23-2K-2010 (Vested Rights Determination) is based on a fair notice application (new project) submitted under Section 23-2K-1050 (Fair Notice Application):
 - (1) The project expires one year after the date the application was submitted; or
 - (2) If a permit application is submitted before the fair notice application expires, the project expires on the date applicable to the permit under this section.

23-2K-3030 Managed Growth Agreements

- (A) **Purpose and Applicability.** This section provides a voluntary mechanism to request longer project expiration periods than those established under Section 23-2K-3020 (Expiration of Projects Begun On or After June 23, 2014).
- (B) **Application Requirements.** To be accepted for review, an application for a proposed managed growth agreement must include all information required by the responsible director, including a proposed expiration date, and must meet the requirements of this subsection.
 - (1) An application for a managed growth agreement may be submitted concurrent with the first permit application, or before the review period expires, if the project associated with the proposed agreement:
 - (a) Is filed for review under current regulations;
 - (b) Does not require a variance approved by the Land Use Commission or Board of Adjustment, unless the project is limited to residential uses that do not require a site plan under Section 23-6A-2010 (Site Plan Exemptions);
 - (c) Includes only property located within the zoning jurisdiction, outside of the Barton Springs Zone; and
 - (d) Includes at least 10 acres of land.
 - (2) An application for a managed growth agreement may be submitted after approval of the first permit application, but no later than one year before the project expires, if the project associated with the proposed agreement:
 - (a) Complies with the regulations in effect on the date the application for a managed growth agreement was submitted or, in extraordinary circumstances, includes community benefits or superior development features that mitigate noncompliance with current regulations;
 - (b) Does not require a variance approved by the Land Use Commission or Board of Adjustment, unless the project is limited to residential uses that do not require a site plan under Section 23-6A-2010 (Site Plan Exemptions);
 - (c) Includes only property located within the zoning jurisdiction, outside of the Barton Springs Zone; and
 - (d) Does not impede or delay official City economic development or sustainability initiatives.

- (C) **Public Hearing Required.** If an application meets the requirements in Subsection (B), the responsible director shall:
- (1) Schedule a public hearing on the proposed agreement and provide notice of the hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice); and
 - (2) Make a recommendation to approve or deny the agreement based on whether the project:
 - (a) Requires a longer period of time to construct than the timeframes established under Section 23-2K-3020 (Expiration of Projects Begun On or After June 23, 2014);
 - (b) Furthers the goals and policies of the Comprehensive Plan; and
 - (c) Is environmentally superior to the minimum standards applicable to the project under Article 23-3C (Urban Forest Protection and Replenishment) and Article 23-3D (Water Quality), as determined based on a recommendation from the environmental officer.
- (D) **Council Action.** The council may approve or deny a proposed Managed Growth Agreement based on the criteria in Subsection (C) and may establish whatever expiration period the council considers appropriate, but may not waive or modify current regulations applicable to the project.
- (E) **Effect of Managed Growth Agreement.** If a managed growth agreement is approved under this section, the responsible director shall treat the project as vested to the regulations in effect on the date of the first application until the date the agreement expires.

23-2K-3040 Dormant Projects

- (A) **Purpose and Applicability.** This section is adopted under Section 245.005 (Dormant Projects) of the Local Government Code to provide expiration dates for permits that lack an expiration date under applicable regulations. This section does not apply to a permit that is subject to an expiration date under the regulations applicable to the permit. For purposes of this section, a permit that is not subject to an expiration date is an "unexpired permit."
- (B) **Dormancy Timeframes**
- (1) If an unexpired permit was approved before May 11, 2000, then the permit expired on May 11, 2004, unless the applicant submits evidence sufficient to show that progress towards completion of the project was made under Subsection (C) before May 11, 2000.
 - (2) If an application for an unexpired permit was submitted after September 5, 2005, then the permit expires five years after the permit was approved unless the applicant submits evidence sufficient to show that progress towards completion of the project was made before that date under Subsection (C).

- (C) **Progress Towards Completion.** For purposes of this section, progress towards completion of a project includes any one of the following:
- (1) An application for a final plat or plan is submitted to a regulatory agency;
 - (2) A good-faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
 - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, wholly or partly, the project (but excluding land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
 - (4) Fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or
 - (5) Utility connection fees or impact fees for the project have been paid to a regulatory agency.
- (D) **Effect of Dormancy on Permit Series.** If the first permit in a series of permits for a project expires based on dormancy of the project, then it cannot form the basis of a vested rights petition.

Article 23-2L: Miscellaneous Provisions

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23-2L-1010 Purpose and Authorization

- (A) **Purpose.** This division establishes procedures by which the council may approve interlocal development agreements with other governmental entities. The purpose of an interlocal development agreement is to adopt reasonable development regulations that balance the needs of other governmental entities with the requirements of this Title and the goals and policies of the Comprehensive Plan.
- (B) **Authorization**
- (1) The City may enter into an interlocal development agreement under this division with any governmental entity, municipal corporation, or political subdivision.
 - (2) An interlocal development agreement, including an amendment to an existing agreement, may establish or modify regulations for the use, maintenance, development, or construction of property containing one or more existing or proposed structures to be used for a governmental purpose.

23-2L-1020 Initiation of Interlocal Development Agreement

The council or the responsible director may initiate the negotiation of an interlocal development agreement, subject to the review and approval procedures established in this division.

23-2L-1030 Land Use Commission Hearing and Recommendation

- (A) **Public Hearing Required.** Before the council considers a proposed interlocal development agreement, the responsible director shall schedule a public hearing on the proposed agreement before the Land Use Commission and provide notice of the public hearing under Section 23-2L-1050 (Notification Requirements).
- (B) **Commission Recommendation & Deadline.** Not later than the 14th day after the public hearing on a proposed agreement is closed, the Land Use Commission shall recommend that the council:
 - (1) Approve the interlocal development agreement as proposed;
 - (2) Approve the interlocal development agreement with modifications; or
 - (3) Reject the proposed interlocal development agreement.

23-2L-1040 City Council Hearing and Action

- (A) **Council Public Hearing & Notice.** After the Land Use Commission makes its recommendation, the council shall hold a public hearing on the proposed interlocal development agreement. The responsible director shall provide notice of the public hearing under Section 23-2L-1050 (Notification Requirements).
- (B) **Council Action.** After a public hearing on a proposed interlocal development agreements, the council may authorize the City manager to:
 - (1) Execute the agreement as proposed;
 - (2) Execute a modified agreement, which may include different use, development, or construction regulations, or other conditions, than those included in the proposed agreement recommended by the Land Use Commission or the responsible director;
 - (3) Initiate the negotiation of a new agreement, which shall be subject to review by the Land Use Commission under Section 23-2L-1030 (Land Use Commission Hearing and Recommendation); or
 - (4) Reject the proposed agreement and discontinue negotiations.

23-2L-1050 Notification Requirements

- (A) **Type of Notice Required**
 - (1) **Site-Specific Interlocal Development Agreements.** If a proposed interlocal development agreement establishes or modifies use, development, or construction regulations applicable to a particular site or structure, the responsible director shall provide notice of the hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice); and
 - (2) **Areawide Interlocal Development Agreements.** If a proposed interlocal development agreement establishes or modifies general use, construction, or development regulations contained in a master plan or agreement applicable to a governmental entity, municipal corporation, or political subdivision, the responsible director shall provide notice of the hearing under Section 23-2C-4040 (Type 2 Public Hearing Notice).

- (B) **Deadlines for Notification.** The deadline for providing mailed and published notice of a public hearing on a proposed interlocal development agreement is:
- (1) The 11th day before the date of the Land Use Commission hearing; and
 - (2) The 16th day before the date of the council hearing.
- (C) **Contents of Notice.** Mailed and published notice of a public hearing required by this division must:
- (1) Describe the general nature of the proposed interlocal development agreement;
 - (2) Identify the governmental entity, municipal corporation, or political subdivision that is to be a party to the agreement;
 - (3) Generally describe the proposed agreement;
 - (4) Identify the entities that may approve the proposed agreement;
 - (5) State the earliest date that action on the proposed agreement may occur; and
 - (6) Include the address and telephone number of the responsible director or staff from whom additional information may be obtained.

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Division 23-2L-2: General Development Agreements

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23-2L-2010 Purpose and Applicability

- (A) This division establishes procedures by which the council may consider a development agreement, as authorized under Section 212.172 of the Texas Local Government Code, to achieve a higher standard of development for land located in the City's extraterritorial jurisdiction.
- (B) A development agreement may only be considered for land located in the City's extraterritorial jurisdiction. A development agreement may include a transfer of development intensity if the sending or receiving site, or both, are located outside the city limits at the time the agreement is executed.
- (C) A development agreement that includes land in the Barton Springs Zone is subject to Division 23-3D-9 (Save Our Springs Initiative), including the limitations on amendment established by Section 23-3D-9020 (Amendment).

23-2L-2020 Agreement Initiation and Framework

- (A) **Council Initiation Required.** A development agreement may only be considered if the council initiates the agreement by adopting a resolution directing the City manager to begin negotiating the terms of a proposed agreement with an owner of property in the City's extraterritorial jurisdiction. A public hearing on a proposed development agreement may not be held unless the council has initiated negotiations under this section.
- (B) **Framework for Agreement.** In initiating negotiation of a development agreement, the council may specify goals or objectives to be considered in negotiations regarding any of the following elements:
 - (1) **Annexation Status.** Continuation of the extraterritorial status of the land and immunity from annexation.
 - (2) **Land Use Plan.** Extension of the City's planning authority over the land through a development plan authorizing general lands uses and development standards, which may be tied to annexation under Subsection (B)(5).
 - (3) **Enforcement Authority.** Authorization to enforce:
 - (a) Specified land use and development regulations in the same manner the regulations are enforced within the zoning jurisdiction; and
 - (b) Environmental regulations.

- (4) **Infrastructure.** Provisions for infrastructure, including streets and roads; street and road drainage; land drainage; and water, wastewater, and other utility systems.
- (5) **Annexation.** The terms of annexation, wholly or partly, if annexation agreed to by the parties.
- (6) **General Conditions.** Other lawful terms and considerations considered appropriate.

23-2L-2030 Boards and Commission Review

(A) Planning Commission Review and Recommendation

- (1) Before presenting the terms of a proposed development agreement to the council for consideration under Section 23-2L-2040 (Council Hearing and Action), the responsible director shall schedule a public hearing on the terms of a proposed agreement before the Planning Commission and provide notice of the hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice).
- (2) No later than the 14th day after closing the public hearing, the Planning Commission shall make a recommendation to approve, conditionally approve, or reject the terms of a proposed development agreement based on the following criteria:
 - (a) The extent to which the proposed terms further the goals and policies of the Comprehensive Plan, including those related to conservation and environment, affordability, and land use and transportation.
 - (b) Whether the proposed terms further public health, safety, and welfare.
- (3) If the Planning Commission does not make a recommendation as required under Subsection (A)(2), the responsible director shall forward the terms of the proposed agreement to the council for consideration under Section 23-2L-2040 (Council Hearing and Action).

- (B) **Additional Review & Criteria.** The council may require that the terms of a proposed development agreement be presented for review to additional City boards or commissions, other than as required by Subsection (A), and may specify additional review criteria to be considered in determining whether to recommend the terms of a proposed agreement.

23-2L-2040 City Council Hearing and Action

- (A) **Council Hearing.** Not later than the 60th day after the Land Use Commission makes its recommendation, the council shall hold a public hearing on the terms of a proposed development agreement, which must include a complete land use plan and any other elements agreed to by the City manager and the landowner under Section 23-2L-2020 (Agreement Initiation and Framework). The responsible director shall provide notice of the public hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice).
- (B) **Council Action.** After a public hearing on a proposed development agreement, the council may authorize the City manager to:
 - (1) Execute the agreement as proposed, with the concurrence of the landowner;
 - (2) Execute a modified agreement, with the concurrence of the landowner;

- (3) Initiate the negotiation of a new agreement, which shall be subject to review by the Land Use Commission under Section 23-2L-2030 (Boards and Commission Review); or
- (4) Reject the proposed agreement and discontinue negotiations.

23-2L-2050 Execution and Terms of Agreement

- (A) **Authority to Execute.** If the council approved the terms of a proposed development agreement under Section 23-2L-2040 (Council Hearing and Action), the City manager shall execute the agreement on behalf of the City subject to approval and execution by the landowner.
- (B) **Agreement Terms.** In addition to terms approved by the council and the landowner for the elements listed in Section 23-2L-2020 (Agreement Initiation and Framework), a development agreement must include provisions for each of the following:
 - (1) **Effect of Agreement.** A development agreement must include binding terms:
 - (a) Putting into effect the regulations provided in the development agreement and land use plan;
 - (b) Authorizing the provision of City services under the agreement;
 - (c) Authorizing the property owner to apply for subordinate development permits under the agreement; and
 - (d) Requiring the development agreement and land use plan to be recorded in the real property records of each county in which the land subject to the agreement is located.
 - (2) **Term of Agreement.** A development agreement must specify the duration of the contract and any successive amendments or renewals, which may not exceed 45 years.
 - (3) **Other Provisions.** A development agreement may include other general contract provisions that are determined to be necessary to the lawful execution and administration the agreement.

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23-2L-3010 Applications Relating to a Closed Municipal Solid Waste Landfill

(A) Applicability

- (1) This section applies to development of a residential, commercial, or public enclosed structure that is designed for use by humans and that is located on a site over one acre in size or located within a landfill area.
- (2) This section does not apply to the remodel of or addition to a single-family or duplex use allowed in Residential House-Scale Zones.

(B) **Application Requirements.** The responsible director or building official may not approve a subdivision, site plan, or building permit application unless the applicant has submitted:

- (1) Certification from a licensed professional engineer that the site does not overlie a Closed Municipal Solid Waste Landfill (CMSWL); or
- (2) If the site overlies a CMSWL, a development permit from the Texas Commission on Environmental Quality or written notification from the Texas Commission on Environmental Quality that a development permit is not required; or
- (3) Certification from a licensed professional engineer that the applicant will conduct soil testing under the standards of the Texas Commission on Environmental Quality during construction of the foundations to determine whether the site overlies a CMSWL.

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General Planning Requirements



23-3: General Planning Requirements General to Chapter

PC Motion #11

Recommend approval of Articles 23-3A, 3B, 3C, and 3D with amendments previously approved.

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Article 23-3A: Purpose and Applicability

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Division 23-3A-1: Purpose and Applicability

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23-3A-1010 Purpose

- (A) This chapter establishes standards and regulations that apply at multiple stages of the development process and address a wide range of impacts that development may have on the City's residents and environment.
- (B) The purpose of this chapter is to:
 - (1) Ensure that new development contributes to, and is served by, a strong municipal park system that provides passive and active recreational amenities and open space accessible to residents in all areas of the City;
 - (2) Protect and replenish the City's urban forest resources;
 - (3) Provide for the protection of water quality and protection against the impacts of flooding; and
 - (4) Encourage the creation and preservation of affordable housing.
- (C) Achieving these objectives is essential to the development of a healthy, sustainable and desirable city environment. Implementation of this chapter protects public health, safety, and welfare and furthers the goals of the Comprehensive Plan and Zoning Code.

23-3A-1020 Applicability

Except where otherwise provided, this chapter applies to development within the City of Austin and the ETJ.

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EC Motion #13

Add setbacks for parks to improve functionality and compatibility; for residential development, add a provision that encourages street frontage or open spaces next to existing or proposed parkland; add "adjacency" regulations for non-residential development, including regulations that discourage or screen loading docks and service entries from being located next to a park zone, and specify that screening must include vegetation; for subdivisions, add a regulation that lots must not block access to existing or dedicated parkland; for common open space, establish an impervious cover limit of 30 percent; in park deficient areas, clarify that land dedication is the priority or preferred manner of satisfying parkland requirements; ensure that common or civic open space is required for all zoning categories; screening on developments next to a park must include vegetation.

Article 23-3B: Parkland Dedication

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Division 23-3B-1: General Provisions

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23-3B-1010 Purpose and Applicability

(A) Purpose.

- (1) The City of Austin has determined that recreational areas in the form of public parks and open spaces are necessary for the well-being of the City's residents.
- (2) The City has further determined that the approval of new residential development creates a need for additional parkland and park amenities to serve new residents and maintain existing levels of service.
- (3) To address the impacts of new development on the City's park system, this article:
 - (a) Requires residential development to dedicate parkland or pay a fee in-lieu of land dedication as a condition to development approval; and
 - (b) Establishes a fair method for determining the amount that new development may reasonably be required to contribute, based on its direct impacts to the City's park system and the need for high quality parkland and open space to serve the City's residents.

(B) Applicability

- (1) The requirements of this article apply to:
 - (a) a residential subdivision in the planning jurisdiction;
 - (b) a site plan in the zoning jurisdiction that includes residential units or a hotel-motel use; and
 - (c) a residential building permit, as provided under Section 23-3B-1020 (Dedication of Land or Payment In-Lieu at Building Permit).
- (2) The following are exempt from the requirements of this article:
 - (a) a subdivision or site plan for which parkland was previously dedicated or payment made under this Title, except for the dwelling units or lots that exceed the number for which dedication or payment was made;
 - (b) development within the City's extraterritorial jurisdiction that is within Travis County and governed by Title 30 (Austin/Travis County Subdivision Regulations); and
 - (c) affordable dwelling units as described in Article 23-3E (Affordable Housing).

23-3B-1020 Review Authority

- (A) Authority and responsibility for implementing this chapter is delegated to the Parks Director, which is referred to in this chapter as “the director.” However, the city manager may from time to time delegate particular functions under this chapter to one or more other City departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this chapter, the director may consult with other City departments regarding issues within that department’s area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (City Departments and Directors).
- (C) The director is authorized to take actions that are necessary to implement this article and, at a minimum, shall adopt the following by administrative rule under Chapter 1-2 (Administrative Rules) after obtaining a recommendation from the Parks Board:
 - (1) A Deficient Park Area Map illustrating shortages in parkland; and
 - (2) Parkland Dedication Operating Procedures establishing:
 - (a) Boundaries for service areas required by Section 23-3B-3030 (Fee Payment and Expenditure) for use of a fee in-lieu of parkland dedication and parkland development fee;
 - (b) General standards for dedicated parkland under Section 23-3B-2020 (Standards for Dedicated Parkland);
 - (c) Methodology for determining:
 - (i) Parkland cost factor and park level-of-service under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication); and
 - (ii) Park development cost factor and facilities level-of-service under Section 23-3B-3020 (Parkland Development Fee); and other provisions deemed necessary for implementing this article.

Division 23-3B-2: Dedication

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23-3B-2010 Dedication of Parkland

- (A) **Dedication Required.** An applicant for subdivision or site plan approval must provide for the parkland needs of the residents by the dedication of suitable land for park and recreational purposes under this article or by payment of a fee in-lieu of dedication under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication).
- (B) **Subdivision Dedication.** For dedication made at subdivision, the area to be dedicated must be shown on the preliminary plan and final plat as “Parkland Dedicated to the City of Austin.” The subdivider shall dedicate to the City all parkland required by this article when a plat is approved, except that the director may defer dedication of parkland to site plan approval if development within the subdivision will require a site plan under Chapter 23-6 (Site Plan).
- (C) **Site Plan Dedication.**
- (1) For dedication made at site plan the area to be dedicated must be shown on the site plan as “Parkland Dedicated to the City of Austin” and in a deed to the City. The applicant shall dedicate the parkland required by this article to the City by deed before the site plan is released, except that dedication may be deferred until issuance of a certificate of occupancy if construction of amenities is authorized under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) or Section 23-3B-3020 (Parkland Development Fee).
 - (2) In negotiating a deed under this section, the director may require that a reasonable portion of the total impervious cover permitted on the site be allocated to the dedicated parkland to allow for construction of parkland amenities without unduly impacting development of the proposed site plan.
- (D) **Building Permits.** For a building permit that is subject to Section 23-3B-2040 (Dedication of Land or Payment In-Lieu at Building Permit), the area to be dedicated must be shown in a deed to the City. The applicant shall dedicate to the City all parkland required by this article before a building permit is issued.
- (E) **Criteria for Land Dedication.**
- (1) **Level of Service.** Except as provided under Subsection (H), the amount of parkland required to be dedicated to the City is 9.4 acres for every 1,000 residents, as determined by the following formula:
$$(9.4 \times \text{Number of Units} \times \text{Residents per Unit}) / 1,000 = \text{Acres of Parkland}$$
 - (2) **Densities**
 - (a) In calculating the amount of parkland to be dedicated under this section, the number of residents in each dwelling unit is based on the following densities:

Table 23-3B-2010(A): Calculation of Parkland

Density Classification	Residents in Each Dwelling Unit
Low Density: Not more than 6 units per acre	2.8
Medium Density: More than 6 and not more than 12 units per acre	2.2
High Density: More than 12 units per acre	1.7
Hotel-Motel Density: Total number of rooms	$1.7 \times \text{Annual Occupancy Rate}$

(b) If the density of a development is not known:

- (i) The density is assumed to be the highest permitted in the Zone, or if the property is not zoned, 24 dwelling units per acre; or
- (ii) For a residential Subdivision within the extraterritorial jurisdiction, the applicant may reduce the assumed density by agreeing, in a manner that is enforceable by the City and approved by the City Attorney, that any subsequent increases in density may require additional dedication of parkland under this Section or payment of a fee in- lieu of dedication under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication).

(F) **Dedication Costs.** An applicant must pay all costs of transferring the parkland to the City, including the costs of:

- (1) An environmental site assessment without any further recommendations for clean-up, certified to the City not earlier than the 120th day before the closing date;
- (2) A Category 1(a) land title survey, certified to the City and the title company not earlier than the 120th calendar day before the closing date;
- (3) A title commitment with copies of all Schedule B and C documents, and an owner's Title policy;
- (4) A fee simple deed;
- (5) Taxes prorated to the closing date;
- (6) Recording fees; and
- (7) Charges or fees collected by the title company.

(G) **PUD Parkland Requirements.** Development within a Planned Unit Development (PUD) Zone may, if required by the ordinance adopting the PUD, be subject to additional parkland requirements and may be entitled to count dedicated parkland towards meeting open space requirements under Section 23-4D-8130 (Planned Unit Development Zone).

(H) **15 Percent Urban Core Cap.** The amount of parkland required to be dedicated within the Parkland Dedication Urban Core may not exceed 15 percent of gross site area for the development required to provide the dedication except upon consent of the applicant or as authorized under this subsection.

- (1) The director may request that the Land Use Commission approve dedication in excess of the 15 percent cap, up to the amount required under Subsection (E), if doing so is necessary to address a critical shortage of parkland for an area identified in the

Deficient Parkland Area Map or provide connectivity with existing or planned parks or recreational amenities.

- (2) Before the Land Use Commission considers a request under this subsection for approval, the director shall present the request to the Parks Board for a recommendation.
- (3) In considering a request from the director under this subsection, the Land Use Commission may:
 - (a) Deny the director's request and limit the required dedication to no more than 15 percent of gross site area; or
 - (b) Require additional parkland dedication beyond the 15 percent cap, up to the lesser of either the amount required under Subsection (E) or the minimum amount the Land Use Commission finds to be necessary based on the criteria in Subsection (J)(1) and the parkland dedication operating procedures.
- (4) If an applicant dedicates less than the amount of land required for dedication under Subsection (E) due to the 15 percent cap imposed by this subsection, the director shall require payment of a fee in-lieu of dedication under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) for the remaining undedicated land.
- (5) A request by the director under this subsection may be consolidated with an appeal by the applicant under Subsection 23-3B-3010 (F) (Payment of Fee In-Lieu Dedication).

23-3B-2020 Standards for Dedication of Parkland

- (A) In addition to the requirements of this article, land to be dedicated as parkland must meet the requirements of this subsection.
 - (1) Parkland must be easily accessible to the public and open to public view so as to benefit area residents, enhance the visual character of the City, protect public safety, and minimize conflicts with adjacent land uses.
 - (2) On-street and off-street connections between residential neighborhoods shall be provided, wherever possible, to provide reasonable access to parks and open space areas.
 - (3) Parkland must comply with the standards in the Comprehensive Plan, the Park and Recreation Long-Range Plan, the Environmental Criteria Manual, and the Parkland Dedication Operating Procedures.
- (B) The director shall determine whether land offered for dedication complies with the standards for dedication under Subsection (A) and may require a subdivision or site plan applicant to provide information deemed necessary to determine compliance.
- (C) Unless otherwise required under the Parkland Dedication Operating Procedures, 50 percent of acreage in the 100 year floodplain that is dedicated as parkland may be credited toward fulfilling the requirements of this article if any adjoining land within the 25 year floodplain is also dedicated as parkland. The land within the 25-year floodplain may not be credited toward fulfilling the requirements of this article.
- (D) Land identified on the Deficient Parkland Area Map that does not otherwise comply with the standards for parkland dedication may be accepted as dedicated parkland if the director determines that the land will provide recreational or educational opportunities

for the surrounding community. Fifty percent of the acreage of land accepted for dedication under this subsection may be credited toward fulfilling parkland dedication requirements.

23-3B-2030 Private Parkland

- (A) The director may allow up to a 100 percent credit toward fulfilling the requirements of:
 - (1) Section 23-3B-2010 (Dedication of Parkland) for privately owned and maintained parkland or recreational easements that are available for use by the public and meet the standards of the Parkland Dedication Operating Procedures; and
 - (2) Section 23-3B-3020 (Parkland Development Fee) for recreational facilities that are located on privately owned and maintained parkland and available for use by the public.
- (B) For a subdivision or site plan located outside the City limits, the director may allow up to a 100 percent credit toward fulfilling the requirements of this article for private parkland if:
 - (1) The director determines that the private parkland meets City parkland standards; and
 - (2) The land owner agrees to dedicate the private parkland to the City if the City annexes the land for all purposes.
- (C) If private parkland will include construction of recreational amenities, the applicant must post fiscal surety in an amount equal to the fee in-lieu provided for under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) and the development fee required under Section 23-3B-3020 (Parkland Development Fee). The fiscal surety must be posted before final plat approval or before site plan release, for any portion of the subdivision that will require a site plan.
- (D) Yards, setback areas, and private personal open spaces required by this Title may not be counted as private parkland under this section, except for a required setback or yard that includes a public trail.
- (E) If private parkland is allowed, a recreation easement must be recorded prior to Site Plan or Subdivision approval.

23-3B-2040 Dedication of Land or Payment In-Lieu at Building Permit

- (A) Dedication of parkland or payment in lieu of dedication, as determined by the director under this Article, is required as a condition to obtaining a building permit for residential development located within a Subdivision that:
 - (1) At the time of approval, was deemed to be exempt from a requirement to dedicate parkland or pay a fee in-lieu of dedication based on the assumption that development within the subdivision would be limited to non-residential uses; and
 - (2) Has not subsequently developed with a use for which parkland was dedicated or a fee in-lieu of dedication was paid.
- (B) The amount of a fee in-lieu of parkland dedication under this section shall be calculated in accordance with Section 23-3B-2010 (Dedication of Parkland) and Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication).

Division 23-3B-3: Fees

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23-3B-3010 Fee In-Lieu of Parkland Dedication

- (A) **Fee In-Lieu Authorized.** The director may require or allow a subdivision or site plan applicant to deposit with the City a fee in-lieu of parkland dedication under Section 23-3B-2010 (Dedication of Parkland) if:
- (1) The director determines that payment of a fee in-lieu of dedication is justified under the criteria in Subsection (B); and
 - (2) The following additional requirements are met:
 - (a) Less than six acres is required to be dedicated under Section 23-3B-2010 (Dedication of Parkland); or
 - (b) The land available for dedication does not comply with the standards for dedication under Section 23-3B-2020 (Standards for Dedicated Parkland).
- (B) **Review Criteria.** In determining whether to require dedication of land under Section 23-3B-2010 (Dedication of Parkland) or allow payment of a fee in-lieu of dedication under this section, the director shall consider whether the subdivision or site plan:
- (1) Is located within the Deficient Park Area Map;
 - (2) Is adjacent to existing parkland;
 - (3) Has sufficient acreage to meet the standards for dedicated parkland under the Parkland Dedication Operating Procedures;
 - (4) Is needed to address a critical need for parkland or to remedy a deficiency identified by the Deficient Park Area Map; or
 - (5) Would provide increased connectivity with existing or planned parks or recreational amenities.
- (C) **Review Procedure.** The director shall, at the request of an applicant, determine whether payment of a fee in-lieu of parkland dedication will be allowed prior to formal submittal of a site plan or subdivision application. The director may establish requirements for obtaining the determination in the Parkland Dedication Operating Procedures and may require an applicant to provide information relevant to the criteria in Subsection (B). A determination issued under this Subsection is valid for a period of one-year from the date of issuance.
- (D) **Fee Amount.** The amount of the fee in-lieu of parkland dedication is established in the annual fee schedule based on a recommendation by the director in accordance with this subsection.

Table 23-3B-3010(A): In Lieu Fee Calculation

Density Classification	Residents in Each Dwelling Unit
Low Density: Not more than 6 units per acre	2.8 x Land Cost per Person
Medium Density: More than 6 and not more than 12 units per acre	2.2 x Land Cost per Person
High Density: More than 12 units per acre	1.7 x Land Cost per Person
Hotel-Motel Density: Total number of rooms	1.7 x Annual Occupancy Rate x Land Cost per Person

- (1) For purposes of calculating “Land Cost per Person” to determine the fee in-lieu under this subsection:
- (a) Land Cost per Person=(Parkland Cost Factor)/(Parkland Level of Service)
 - (b) Where:
 - (i) “Parkland Cost Factor” is determined by the director based on the average purchase price to the City for acquiring an acre of parkland, excluding a metro or district park or golf course; and
 - (ii) “Parkland Level-of-Service” is:
Parkland Level of Service=(City Population)/(Net Park Acreage)
 - (iii) “City Population” is determined by the City Demographer; and
 - (iv) “Net Park Acreage” is the total citywide acreage of neighborhood parks, pocket parks, and greenways, as determined by the director prior to adoption of the annual fee ordinance by the Council.
- (E) **Fee In-Lieu and Dedication.** If the director determines that payment of a fee in-lieu of parkland dedication is authorized under this section for only a portion of the land required to be dedicated under Section 23-3B-2010 (Dedication of Parkland), the director may allow an applicant to pay a fee in-lieu for that portion and require that the remaining land be dedicated. If an applicant dedicates parkland under Section 23-3B-2010 (Dedication of Parkland), the director may not include that acreage in calculating the fee in-lieu required by this section for any remaining land not included in the dedication.
- (F) **Appeal.** If the director rejects a request to pay a fee in-lieu of dedication under Subsection (B), the applicant may appeal the director’s decision to the Land Use Commission consistent with the procedures in Article 23-2I (Appeals). Before the Land Use Commission considers the appeal, the director shall present the case to the Parks Board for a recommendation, but failure by the Parks Board to act shall not prohibit the Land Use Commission from considering the appeal.

23-3B-3020 Parkland Development Fee

- (A) **Development Fee Required.** Except as provided in Subsection (C), an applicant must pay a parkland development fee as a condition to approval of a residential subdivision or site plan in order to ensure that land is developed with recreational amenities sufficient for park use.

- (B) **Fee Amount.** The amount of the development fee is established in the annual fee schedule based on a recommendation by the director in accordance with this subsection.

(1) Parkland Development Fee

Table 23-3B-3020(A): Parkland Development Fee

Density Classification	Residents in Each Dwelling Unit
Low Density: Not more than 6 units per acre	2.8 x Park Development Cost per Person
Medium Density: More than 6 and not more than 12 units per acre	2.2 x Park Development Cost per Person
High Density: More than 12 units per acre	1.7 x Park Development Cost per Person
Hotel-Motel Density: Total number of rooms	1.7 x Annual Occupancy Rate x Park Development Cost per Person

(2) For purposes of determining the development fee under Subsection (B)(1):

Park Development Cost=(Park Development Cost Factor)/(Park Facilities Level of Service)

Where:

- (a) "Park Development Cost Factor" is determined by the director based on the average cost of developing an acre of parkland up to the standards of a neighborhood park; and
- (b) "Park Facilities Level-of-Service" is:

Park Facilities Level of Service=(City Population)/(Number of Developed Parks)

Where:

 - (i) "City Population" is determined by the City Demographer; and
 - (ii) "Number of Developed Parks" is the total number of parks developed with a recreational amenity or trail, as determined by the director prior to adoption of the annual fee ordinance by the Council.

- (C) **Construction of Amenities.** The director may allow an applicant to construct recreational amenities on public or private parkland, if applicable, in-lieu of paying the development fee required by this section. In order to utilize this option, the applicant must:

- (1) Post fiscal surety in an amount equal to the development fee;
- (2) If a dedication of land is required, construct recreational amenities prior to the dedication in a manner consistent with the parkland dedication operating procedures; and
- (3) Document the required amenities concurrent with subsection or site plan approval, in a manner consistent with the parkland dedication operating procedures.

23-3B-3030 Fee Payment and Expenditure

- (A) Payment of a fee required under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) or Section 23-3B-3020 (Parkland Development Fee) must be paid as required by this subsection.
 - (1) If a fee in-lieu of dedication or a parkland development fee is required as a condition to subdivision approval, the applicant must deposit the fee with the City before final plat approval. The applicant may defer payment of a fee until site plan approval unless development proposed within the subdivision is exempt from the requirement to submit a site plan under Division 23-6A-2 (Exemptions).
 - (2) If a fee in-lieu of dedication or a parkland development fee is required as a condition to site plan approval, the applicant must deposit the fee with the City before the site plan may be approved.
- (B) The director shall place fees paid under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) or Section 23-3B-3020 (Parkland Development Fee) into separate funds and use the fees consistently with the requirements of this subsection.
 - (1) Except as provided in Subsection (B)(3), the director shall use fees paid under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) solely to acquire parkland or recreational easements that will benefit residents of the development for which the fees are assessed. These parkland or recreational easements must be located within a service area designated by the director under the Parkland Dedication Operating Procedures.
 - (2) The director shall use fees paid under Section 23-3B-3020 (Parkland Development Fee) solely to acquire and develop recreational amenities that will benefit residents of the development for which the fees are assessed and are located within a service area designated by the director under the Parkland Dedication Operating Procedures.
 - (3) The director may use fees paid under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) consistent with the purposes described in Subsection (B)(2) if, within one year from the date the fees are appropriated for expenditure, the director determines that land which meets the requirements of Section 23-3B-2020 (Standards for Dedicated Parkland) is unavailable for purchase within the service area for which the fees were assessed.
- (C) The City shall expend a fee collected under this article within five years from the date the fees are appropriated for expenditure by the director. This period is extended by five years if, at the end of the initial five-year period, less than 50 percent of the residential units within a subdivision or site plan have been constructed.
- (D) If the City does not expend a fee payment by the deadline required in Subsection (C), the subdivision or site plan applicant who paid the fee may request a refund under the requirements of this subsection.
 - (1) A refund may only be requested for unbuilt units for which a fee in-lieu of dedication was paid. The refund request must be made in writing and filed with the Parks and Recreation Department not later than 180 calendar days after the expiration of the deadline under Subsection (C).
 - (2) If the refund request is timely filed, the director shall:
 - (a) Refund the amount of unspent fees that were collected under this article in connection with approval of a subdivision or site plan; and

- (b) If a site plan for which fees were assessed was subsequently revised to reduce the number of units, recalculate the amount due based on the reduced number of units and refund any fees paid in excess of that amount.

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EC Motion #11

The current tree protections in the Code be preserved, without change, except to add provisions that encourage preservation of young trees.

Article 23-3C: Urban Forest Protection and Replenishment

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Division 23-3C-1: General Provisions

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23-3C-1010 Purpose and Applicability

(A) Purpose.

- (1) The purpose of this article is to conserve, protect, and enhance existing trees and natural landscapes that are healthy and contribute to a safe and livable community. It is recognized that the preservation of existing trees contributes to the overall quality of life and environment of the City.
- (2) In addition to its social, ecological, cultural, historical, and aesthetic values, the City's urban forest is estimated to save residents approximately \$19 million annually in reduced energy costs. Consequently, the urban forest is an integral part of the City's infrastructure and the City has an interest in preserving, protecting, and enhancing this vital resource.

(B) Applicability.

- (1) This article applies in the zoning jurisdiction.
- (2) This article applies to City projects and projects on City property, in and outside the zoning jurisdiction.

23-3C-1020 Definitions

This section defines words and phrases that are used primarily in this article. For words and phrases used generally throughout this Title, see Section 23-13A-1030 (General Terms and Phrases).

Dead Tree. A tree in which damage to the vascular tissue is so extensive that recovery is not possible.

Diameter at Breast Height or DBH. The diameter of the trunk of a tree typically measured four and one-half feet above natural grade.

Fatally Diseased Tree. A tree in which the abnormal growth or dysfunction:

- a. is communicable to other trees, or
- b. makes restoration to sound condition impracticable.

Heritage Tree. A tree that has a DBH of at least 24 inches and is one of the following species or additional species listed in the Environmental Criteria Manual:

- a. Texas Ash;
- b. Bald Cypress;
- c. American Elm;
- d. Cedar Elm;
- e. Texas Madrone;
- f. Bigtooth Maple;
- g. All oaks;
- h. Pecan;
- i. Arizona Walnut; and
- j. Eastern Black Walnut.

Imminent Hazard. A tree that has started to fail or is likely to fail in the near future and poses a threat to people or property.

Keystone Tree. A tree that has a DBH of at least 8 inches, but less than 19 inches.

Protected Tree. A tree that has a DBH of at least 19 inches.

Regulated Tree. A small public tree, keystone tree, protected tree, or heritage tree.

Remove or Impact. An act that causes or may be reasonably expected to cause a tree to die, including:

- a. Uprooting;
- b. Severing or injuring the trunk;
- c. Damaging the critical root zone; and
- d. Pruning more than 25% of the live canopy.

Small Public Tree. A tree that has a DBH of at least 2 inches, but less than 8 inches and has at least 2/3 of its trunk located on City property.

Tree Permit. A permit to remove or impact a regulated tree that is not associated with a site plan or subdivision construction plan.

23-3C-1030 Review Authority

- (A) Except for functions specifically delegated to the Development Services Director, referred to throughout this article as “the director,” authority and responsibility for implementing this article is delegated to the city arborist, who is appointed by the city manager. However, the city manager may from time to time delegate particular functions under

this chapter to one or more other City departments, which shall control over the general delegations in this subsection.

- (B) In exercising authority under this article, the city arborist may consult with other City departments regarding issues within that department's area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).
- (C) The director shall adopt administrative rules to aid in administering and enforcing this article and to implement street tree regulations in Article 23-9E (Right-of-Way Construction). The rules shall be adopted under Chapter 1-2 (Adoption of Rules) and must be consistent with the requirements of this article. Rules adopted under this article shall include:
 - (1) tree survey and assessment requirements;
 - (2) application and preservation standards;
 - (3) guidelines for identifying impacts;
 - (4) methods to protect regulated trees during development;
 - (5) mitigation measures;
 - (6) planting requirements for single-family lots;
 - (7) right of way tree planting;
 - (8) criteria and performance indicators, including a canopy cover goal, for assessing the state of the urban forest;
 - (9) process for submitting a retroactive tree permit application to remove or impact a regulated tree damaged by natural causes;
 - (10) a summary of the regulations in this article including tree types, sizes, and applicability; and
 - (11) Other provisions necessary for the administration and enforcement of this article.

23-3C-1040 Application Procedures

- (A) A person may not remove or impact a regulated tree without the city arborist's review and approval under this article either through approval of a tree permit or through the city arborist's review and approval of a development application. Additionally, a person may not remove a heritage tree without the city arborist's approval under this article and a variance under Division 3 of this article.
- (B) If a regulated tree has sustained substantial damage by natural causes and is an imminent hazard, a person may remove or impact the regulated tree prior to submitting a tree permit application.
- (C) A tree permit application or development application proposing to impact or remove a regulated tree may be filed by:
 - (1) For a tree on public property or a public street or easement:
 - (a) A City department, public utility, or political subdivision with the authority to install utility lines or other public facilities in, on, or above the property, street, or easement; or

- (b) The owner of the property adjacent to the property where the tree is located or the owner's agent.
- (2) For a tree on private property:
 - (a) The owner of the property on which the tree is located or the owner's agent; or
 - (b) The City, if the tree is fatally diseased, dead, or an imminent hazard and poses a significant risk to the public.
- (D) A tree permit application must:
 - (1) Be filed with the director;
 - (2) Include information as prescribed by the Environmental Criteria Manual and other applicable rules; and
 - (3) Include the review and inspection fee under Section 23-3C-1060 (Review and Inspection Fees).
- (E) A development application must:
 - (1) Include a grading and tree protection plan and other information as prescribed by the Environmental Criteria Manual and other applicable rules; and
 - (2) Demonstrate that the design will preserve the existing natural character of the landscape as prescribed in the Environmental Criteria Manual by incorporating regulated trees unless they are approved for removal or impact by the city arborist under this article.

23-3C-1050 Review Procedures

- A. **Review.** All tree permit applications and all development applications proposing to remove a regulated tree must be reviewed by the city arborist for compliance with this article.
- B. **Mitigation.** The city arborist shall require mitigation measures consistent with this article and the Environmental Criteria Manual before approving a tree permit application or a development application proposing to remove or impact a regulated tree. The responsible director shall not grant final approval of the development application proposing to remove or impact a regulated tree until the applicant satisfies the mitigation condition or posts fiscal surety to ensure performance of the condition.
- C. **Recommendation.** The city arborist must make a recommendation before a tree permit application or a development permit application proposing to remove or impact a regulated tree may be administratively approved or presented to the Land Use Commission or City Council.
- D. **Heritage Tree.** For a tree permit application or development application proposing to remove or impact a heritage tree, the applicant must also file a request for variance under Division 3 of this article.

23-3C-1060 Review and Inspection Fees

- A. **Review and Inspection Fees.** An applicant must pay the review and inspection fees established by separate ordinance if review by the city arborist is required under this article.
- B. **Waiver.** The review and inspection fees are waived if the tree permit application or development application proposing to remove or impact a regulated tree is for:
 - (1) Operation and maintenance of an occupied residential structure not associated with a development application, such as residential wastewater line repairs that impact a regulated tree; or
 - (2) A regulated tree on the basis that the tree poses an imminent hazard, is dead, or is fatally diseased.

23-3C-1070 Administrative Modification of City Policies, Rules, and Design Standards

- (A) The city arborist may request that a city department administratively modify a policy, rule, or design standard to the extent necessary to preserve a regulated tree if enforcement will otherwise result in removing or impacting the regulated tree..
- (B) At the city arborist's request, a responsible director may administratively modify the applicable policy, rule, or design standard if the director determines that a waiver or modification will not pose a threat to public safety.
- (C) This section does not provide authority for an administrative modification that is not otherwise authorized under city code.

23-3C-1080 Effective and Expiration Dates

- A. **Tree Permit.** A tree permit becomes effective immediately after approval by the city arborist, and expires one year after its effective date; provided that the mitigation conditions in the permit remain in effect until the conditions are met.
- B. **Development Application.** A development application proposing to remove or impact a regulated tree becomes effective immediately after approval of the associated development application, and expires when the associated permit expires.

23-3C-1090 Annual Reports

The city arborist shall report annually to the Environmental Commission. The report shall include, at a minimum, development impacts to regulated trees and the state of the urban forest.

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Division 23-3C-2: Small Public, Keystone, and Protected Trees

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23-3C-2010 Small Public Trees

- (A) **Applicability.** This subsection applies only to small public trees located on city right-of-way and parkland.
- (B) **In Rights of Way.** Small Public Trees in city right-of-way should be preserved to the extent feasible.
- (C) **On Parkland.** A tree permit or development application that proposes to remove or impact a small public tree on city parkland may be approved by the city arborist only after determining that:
 - (1) the tree is an imminent hazard, which cannot reasonably be mitigated without removing the tree;
 - (2) the tree is dead;
 - (3) the tree is fatally diseased; or
 - (4) for a parkland improvement, the goals of the proposed improvement may be achieved without removing or impacting the tree.
- (D) **A tree permit is not required to remove or impact a small public tree that is:**
 - (1) located on City right of way,
 - (2) located on City property that is not parkland, or
 - (3) subject to street tree requirements in Section 23-9F-6040(Street Tree Requirements).

23-3C-2020 Keystone Trees

- (A) **Permit.** A tree permit application or development application that proposes to remove or impact a keystone may be approved by the city arborist only after determining that:
 - (1) the tree poses an imminent hazard, which cannot reasonably be mitigated without removing the tree;
 - (2) the tree is dead;
 - (3) the tree is fatally diseased; or
 - (4) removing or impacting the tree cannot be avoided through minor changes to the development proposal that would not change the building layout or number of units, such as grading, access, parking, or landscape island configuration.

(B) Single Family.

- (1) No permit is required to remove or impact a keystone tree located on one or two-unit residential development.
- (2) Keystone trees may be used to fulfill mitigation requirements for one or two unit single-family development if Protected or Heritage trees are approved for removal or impact, or to satisfy planting requirements. The city arborist shall review keystone trees proposed to fulfill mitigation or planting requirements during review of the building permit to ensure the keystone trees are identified prior to construction.

23-3C-2030 Protected Trees

- (A) A protected tree shall be preserved unless the city arborist determines that the tree:
 - (1) poses an imminent hazard, which cannot reasonably be mitigated without removing the tree;
 - (2) is dead;
 - (3) is fatally diseased;
 - (4) prevents reasonable access to the property;
 - (5) prevents reasonable use of the property;
 - (6) for a tree located on public property or a public street or easement:
 - (a) prevents the opening of necessary vehicular traffic lanes in a street or alley; or
 - (b) prevents the construction of utility or drainage facilities that may not feasibly be rerouted and reasonable alternative construction methods have been exhausted.
- (B) The city arborist may recommend that the Board of Adjustment or Land Use Commission approve variances or that the responsible director approve administrative modifications as authorized under this Title, if the variance or modification would allow design solutions that the city arborist believes are reasonably likely to preserve a tree.

23-3C-2040 Appeal

- (A) An applicant may appeal denial of a tree permit application for a protected tree or development application that proposes to remove or impact a protected tree to the Land Use Commission.
- (B) An appeal under this section is subject to the procedures in Article 23-21 (Appeals). Additionally, prior to the Land Use Commission hearing on an appeal, the Environmental Commission shall consider the appeal request and may make a recommendation to the Land Use Commission.

Division 23-3C-3: Heritage Trees

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23-3C-3010 Removal or Impact Prohibited

- (A) Removing or impacting a heritage tree is prohibited unless the city arborist has issued a permit for the removal or impact under this division.
- (B) A permit to remove or impact a heritage tree may be issued only if a variance is approved under Section 23-3C-3020 (Administrative Variance) or 23-3C-3040 (Land Use Commission Variance).
- (C) The requirements in this division apply to trees on private and public property. To the extent of conflict with another section of the code, this division applies.

23-3C-3020 Administrative Variance

- (A) The director may grant a variance from Section 23-3C-3010 (Removal or Impact Prohibited) to allow removing or impacting a heritage tree only after determining, based on the city arborist's recommendation, that the heritage tree:
 - (1) is dead;
 - (2) is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree; or
 - (3) is diseased and:
 - (a) restoration to sound condition is not practicable; or
 - (b) the disease may be transmitted to other trees and endanger their health.
- (B) The director may grant a variance from Section 23-3C-3010 (Removal or Impact Prohibited) to allow removing or impacting a heritage tree that does not have at least one stem that is 30 inches in dbh or larger (measured per the ECM) only after determining, based on the city arborist's recommendation, that the heritage tree meets the criteria in Section 23-3C-2020 (A), and that:
 - (1) the applicant has applied for and been denied a variance, waiver, exemption, modification, or alternative compliance from another City Code provision which would

eliminate the need to remove the heritage tree, as required in Section 23-3C-3060 (Variance Prerequisite); and

- (2) removing or impacting the heritage tree is not the result of a method chosen by the applicant to develop the property, unless the design will allow for the maximum provision of ecological service, historic, and cultural value of other trees on the site.
- (C) A variance granted under this section:
 - (1) shall be the minimum change necessary;
 - (2) shall require mitigation as a condition of waiver approval for waivers requested under Subsection (B) of this section; and
 - (3) may not be issued until the applicant has satisfied the mitigation conditions required under Subsection (D)(2) of this section or posted fiscal surety adequate to ensure that performance of the mitigation conditions will be achieved not later than one year after issuance of the variance.
- (D) The director shall prepare written findings to support the grant or denial of a variance request under Subsection (B) of this Section.

23-3C-3030 Appeal

- (A) An applicant may appeal denial of an administrative variance under Section 23-3C-3020 (Administrative Variance) to the Land Use Commission.
- (B) An appeal under this section requires review by the Environmental Commission.

23-3C-3040 Land Use Commission Variance

- (A) The Land Use Commission may grant a variance from Section 23-3C-3010 (Removal or Impact Prohibited) to allow removing or impacting a heritage tree that has at least one stem that is 30 inches DBH or larger after determining, based on the city arborist's recommendation, that the heritage tree meets the criteria in Section 23-3C-2020 (A), and:
 - (1) the applicant has applied for and been denied a variance, waiver, exemption, modification, or alternative compliance from another City Code provision that would eliminate the need to or impact the heritage tree, as required in Section 23-3C-3060 (Variance Prerequisite); and
 - (2) removing or impacting the heritage tree is not the result of a method chosen by the applicant to develop the property, unless the design will allow for the maximum provision of ecological service, historic, and cultural value of other trees on the site.
- (B) A variance granted under this section:
 - (1) shall be the minimum change necessary;
 - (2) shall require mitigation as a condition of variance approval for variances requested; and
 - (3) may not be issued until the applicant has satisfied the mitigation conditions required under Subsection (B)(2) of this section or posted fiscal surety adequate to ensure that

performance of the mitigation conditions will be achieved not later than one year after issuance of the variance.

- (C) Consideration of a variance under this section requires review by the Environmental Commission.

23-3C-3050 Application for Variance

- (A) For a heritage tree located on public property or a public street or easement, an application requesting a variance to allow removal or impact of the heritage tree may be filed by:
 - (1) a City department, public utility, or political subdivision with the authority to install utility lines or other public facilities in or above the property, street, or easement; or
 - (2) the owner of property adjoining the site of the tree, or the owner's agent.
- (B) For a heritage tree located on private property, an application requesting a variance to allow removing or impacting the heritage tree may be filed by:
 - (1) the owner of the property on which the tree is located, or the owner's agent; or
 - (2) the city arborist, if the tree is fatally diseased or poses an imminent hazard.
- (C) An application requesting a variance to allow removing or impacting a heritage tree must:
 - (1) be filed with the director;
 - (2) include the fee prescribed by ordinance; and
 - (3) include the information prescribed by the Environmental Criteria Manual.

23-3C-3060 Variance Prerequisite

- (A) If a variance, waiver, exemption, modification, or alternative compliance from another City Code provision would eliminate the need for a variance from Section 23-3C-3010 (Removal or Impact Prohibited), before requesting a variance to allow removing or impacting a heritage tree on private property the applicant shall:
 - (1) request a variance, waiver, exemption, modification or alternative compliance from the Code provisions that would eliminate the need to remove or impact the heritage tree; and
 - (2) obtain a grant or denial of the variance, waiver, exemption, modification or alternative compliance that would eliminate the need to remove or impact the heritage tree.
- (B) A request for a variance to allow development that removes or impacts a heritage tree may not be considered unless the variance, waiver, exemption, modification, or alternative compliance from other City Code provisions is denied.
- (C) This section does not apply to an application for a variance to remove or impact a heritage tree based on the criteria in Section 23-3C-2020(A)(1), (2), or (3).
- (D) The body considering the variance, waiver, exemption, modification, or alternative compliance shall consider the benefit of preserving the heritage tree in determining

whether to grant or deny the request for a variance, waiver, exemption, modification, or alternative compliance from another City Code provision.

- (E) This section does not require an applicant to request a variance, waiver, exemption, modification, or alternative compliance if the director determines that to do so would endanger the public health and safety.

23-3C-3070 **Variance Effective Date and Expiration**

- (A) Approval of a variance request to allow removing or impacting a heritage tree is effective immediately.
- (B) A variance to allow removing or impacting a heritage tree expires:
 - (1) One year after its effective date, provided that the mitigation conditions in the variance remain in effect until the conditions are met; or
 - (2) For an application that is associated with a pending subdivision, site plan, or building permit submitted to the City, when the development permit expires.

EC Motion #3

Incorporate into CodeNEXT the implementation of an interim regulation that redefines the 100-year storm event and floodplain.

EC Motion #10

Draft Code be revised to require that requests for floodplain variances be presented to the Environmental Commission for a recommendation before being presented to City Council.

Article 23-3D: Water Quality

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Division 23-3D-1: General Provisions

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23-3D-1010 Findings and Purpose

(A) Findings.

- (1) The city council makes the following findings:
 - (a) The Austin Comprehensive Plan calls for protecting and improving the water quality of Austin's creeks, lakes, and aquifers for community use and support of aquatic life.
 - (b) Austin's watersheds are the lands that contribute to and sustain the City's creeks and lakes. Development anywhere within a watershed can impact water that flows through it as well as downstream receiving waters. Protection of watersheds is critical to the health of waterways and the City's water supply.
 - (c) Urbanization and changing land use conditions modify watershed hydrology, disrupt aquatic habitat, and increase erosion and the level of pollutants in waterways.
 - (d) Austin lies along the boundary of two ecological regions: the Edwards Plateau and the Blackland Prairie, which differ in certain critical respects.
 - (i) The Edwards Plateau features steep slopes, rugged canyons, and the caves and springs of the Edwards Aquifer. Its thin soils and rapid transmission of water mean stormwater receives very little filtration, which risks contamination of surface and groundwater. In addition, these western watersheds drain to the City's principle sources of drinking water.
 - (ii) In contrast, the Blackland Prairie features broad, alluvial floodplains as well as deep but erosive clay soils and creek banks.
 - (e) Given these fundamental physical differences, watershed regulations have been tailored to best fit the unique and substantially different conditions of each region.
 - (f) Protection of the City's watersheds and the quality of its water supply is necessary to protect public health, safety, and welfare.
- (2) In addition to the findings in Subsection (A)(1), the council incorporates the following as supplemental findings:
 - (a) The "Watershed Protection Master Plan" and all supporting documentation and studies cited therein; and

(b) Section 13-15-201 (Findings and Objectives), adopted in Part 1 of Ordinance No. 860508-v.

- (B) **Purpose.** The purpose of this article is to protect the water quality of the City's creeks, lakes, and aquifers through:
- (1) Setbacks that preserve and restore the natural function of waterways and floodplain;
 - (2) Development standards that protect sensitive environmental features like caves, wetlands, springs, and steep slopes;
 - (3) Limits on impervious cover that protect natural function and infiltration;
 - (4) Limits on grading that maintain natural hydrology and minimize site disturbance;
 - (5) Stormwater control measures that slow down, filter, and use polluted runoff in beneficial ways;
 - (6) Facilitating redevelopment that increases the degree to which pre-existing construction complies with this article; and
 - (7) Regulations and review procedures that protect property rights.

23-3D-1020 **Applicability**

- (A) Except as provided in Subsections (B) and (C), this article applies in the planning jurisdiction.
- (B) For a preliminary plan, final plat, or subdivision construction plan in the portion of the City's extraterritorial jurisdiction that is within Travis County:
 - (1) This article does not apply; and
 - (2) Title 30 (Austin/Travis County Subdivision Regulations) governs.
 - (3) For development of one to six residential units within the zoning jurisdiction, this article applies as specified in Division 23-2A-3 (Residential Development Regulations).
- (C) Development by the City of Austin is not exempt from the standards of this article.

23-3D-1030 **Review Authority**

- (A) Authority and responsibility for implementing this chapter is delegated to the director of the Development Services Department, which is referred to in this chapter as "the director." However, the city manager may from time to time delegate particular functions under this chapter to one or more other City departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this chapter, the director may consult with other City departments regarding issues within that department's area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).

23-3D-1040 Designation of Regulated Areas

- (A) **Designation of Regulated Areas.** For purposes of administering this article, the Watershed Director shall determine the boundaries of regulated areas according to the following designations:
- (1) BARTON SPRINGS ZONE means the Barton Creek watershed and all watersheds that contribute recharge to Barton Springs, including to those portions of the Williamson, Slaughter, Onion, Bear, and Little Bear Creek watersheds located in the Edwards Aquifer recharge or contributing zones.
 - (2) BARTON CREEK WATERSHED means the land area that drains to Barton Creek, including Little Barton Creek watershed.
 - (3) EDWARDS AQUIFER is the water-bearing substrata that includes the stratigraphic rock units known as the Edwards Group and Georgetown Formation.
 - (4) EDWARDS AQUIFER CONTRIBUTING ZONE means all land generally to the west and upstream of the Edwards Aquifer recharge zone that provides drainage into the Edwards Aquifer recharge zone.
 - (5) EDWARDS AQUIFER RECHARGE ZONE means all land over the Edwards Aquifer that recharges the aquifer, as determined by the surface exposure of the geologic units comprising the Edwards Aquifer, including the areas overlain with quaternary terrace deposits.
 - (6) SOUTH EDWARDS AQUIFER RECHARGE ZONE means the portion of the Edwards Aquifer recharge zone that is located south of the Colorado River and north of the Blanco River.
 - (7) SUBURBAN WATERSHEDS include all watersheds not otherwise classified as Urban, Water Supply Suburban, or Water Supply Rural watersheds, and include:
 - (a) The Brushy, Buttercup, Carson, Cedar, Cottonmouth, Country Club East, Country Club West, Decker, Dry Creek East, Elm Creek, Elm Creek South, Gilleland, Harris Branch, Lake, Lockwood, Maha, Marble, North Fork Dry, Plum, Rattan, Rinard, South Boggy, South Fork Dry, South Brushy, Walnut, and Wilbarger Creek watersheds;
 - (b) The Colorado River watershed downstream of U.S. 183; and
 - (c) Those portions of the Onion, Bear, Little Bear, Slaughter, and Williamson creek watersheds not located in the Edwards Aquifer recharge or contributing zones.
 - (8) URBAN WATERSHEDS include:
 - (a) The Blunn, Buttermilk, Boggy, East Bouldin, Fort, Harper's Branch, Johnson, Little Walnut, Shoal, Tannehill, Waller, and West Bouldin Creek watersheds;
 - (b) The north side of the Colorado River watershed from Johnson Creek to U.S. 183; and
 - (c) The south side of the Colorado River watershed from Barton Creek to U.S. 183.
 - (9) WATER SUPPLY RURAL WATERSHEDS include:
 - (a) The Lake Travis watershed;
 - (b) The Lake Austin watershed, excluding the Bull Creek watershed and the area to the south of Bull Creek and the east of Lake Austin; and

- (c) The Bear West, Bee, Bohl's Hollow, Cedar Hollow, Coldwater, Commons Ford, Connors, Cuernavaca, Harrison Hollow, Hog Pen, Honey, Little Bee, Panther Hollow, Running Deer, St. Stephens, Steiner, and Turkey Creek watersheds.

(10) WATER SUPPLY SUBURBAN WATERSHEDS include:

- (a) The Bull, Eanes, Dry Creek North, Huck's Slough, Taylor Slough North, Taylor Slough South, and West Bull Creek watersheds;
- (b) The Lady Bird Lake watershed on the south side of Lady Bird Lake from Barton Creek to Tom Miller Dam;
- (c) The Lady Bird Lake watershed on the north side of Lady Bird Lake from Johnson Creek to Tom Miller Dam; and
- (d) The Lake Austin watershed on the east side of Lake Austin from Tom Miller Dam to Bull Creek.

(B) **Verification Required.** The Watershed Director may require an applicant to:

- (1) verify the boundary of an area described in Subsection (A); and
- (2) for property within 1,500 feet of an Edwards Aquifer recharge zone boundary, the Watershed Director may require that an applicant provide a certified report from a geologist or hydrologist verifying the boundary location.

(C) **Boundary Map.** A map of the areas described in Subsection (A) is maintained by the Watershed Protection Department and available for inspection at the offices of the Development Services Department.

23-3D-1050 **Engineer's Certification**

An engineer must certify a plan or plat as complete, accurate, and in compliance with the standards of this article. The director may waive this standard after making a determination that the plan or plat includes only minor alterations or improvements that do not require the services of an engineer.

Division 23-3D-2: Exceptions and Variances

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23-3D-2010 Limited Adjustment

- (A) Except as prohibited by Division 23-3D-9 (Save Our Springs Initiative), a limited adjustment from the standards of this article may be granted under Division 23-2F-3 (Limited Adjustments).

23-3D-2020 Condemnation and Accessibility Exceptions

- (A) The director may approve replacement of existing development located on a property, or included in an approved site plan, if the development is reconfigured as a result of right-of-way configuration and the replacement complies with this section.
- (B) For development that existed in the condemned area of the property, the Watershed director may:
 - (1) Approve replacement of development that existed in the condemned area onto the remainder of the property; and
 - (2) Administratively modify the following requirements of this article, if the director determines that the replacement development will not increase the pollutant loading:
 - (a) requirements applicable to development in the water quality transition zone and the critical water quality zone; and
 - (b) the limitations of this article on impervious cover.
- (C) For property that had existing development or that was included in a released site plan on March 10, 1996, the director may approve additional development that exceeds the impervious cover limitations of this article if the director determines that the increased impervious cover is necessary to comply with the accessibility standards of the Americans With Disabilities Act or the Building Code.

23-3D-2030 Redevelopment Exception in Urban and Suburban Watersheds

- (A) **Applicability.** This section applies to property that contains existing development and is located in an Urban or Suburban watershed if:
- (1) No unpermitted development occurred on the site after January 1, 1992; and
 - (2) The applicant files an election for the property to be governed by this section and:
 - (a) a site plan application; or
 - (b) concurrent subdivision and site plan applications, if the exception under Subsection (B) is requested for the subdivision of property.
- (B) **Requirements for Redevelopment Exception.** This article does not apply to redevelopment of property under this section if the redevelopment:
- (1) Does not increase the existing amount of impervious cover;
 - (2) Provides water quality controls that comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards) for the redeveloped area or an equivalent area on the site;
 - (3) Does not generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property;
 - (4) Is consistent with the neighborhood plan adopted by council, if any;
 - (5) Does not increase non-compliance, if any, with Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-5030 (Critical Environmental Features), or Section 23-3D-5040 (Wetland Protection); and
 - (6) Does not place redevelopment within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (C) **Inventory and Construction Requirements.** Redevelopment under this section must comply with Section 23-3D-5010 (Environmental Resource Inventory) and all construction phase environmental standards in effect at the time of construction, including Division 23-3D-7 (Erosion and Sedimentation Control).

23-3D-2040 Redevelopment Exception in the Barton Springs Zone

- (A) **Applicability.**
- (1) This section applies to property that contains existing commercial, civic, or industrial development and is located in the Barton Springs Zone if:
 - (a) No unpermitted development occurred on the site after January 1, 1992; and
 - (b) The applicant files an election for the property to be governed by this section and:
 - (i) a site plan application; or
 - (ii) concurrent subdivision and site plan applications, if the exception established under this section is requested for the subdivision of property.
 - (2) For redevelopment governed by this section, this section supersedes Division 23-3D-9 (Save Our Springs Initiative), to the extent of conflict.

(B) **Definitions.** In this section:

- (1) SEDIMENTATION/FILTRATION POND means water quality controls that comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards); and
- (2) SOS POND means water quality controls that comply with all standards of Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards) and the pollutant removal standards of Section 23-3D-9040(A) (Pollution Prevention Required).

(C) **Requirements for Redevelopment Exception.** The requirements of this article do not apply to the redevelopment of property under this section if redevelopment meets all of the conditions described in this subsection:

- (1) The redevelopment may not increase the existing amount of impervious cover on the site.
- (2) The redevelopment may not increase non-compliance, if any, with Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-4060 (Water Quality Transition Zone Development), Section 23-3D-5030 (Critical Environmental Features), or Section 23-3D-5040 (Wetland Protection).
- (3) The redevelopment must comply with Section 23-3D-5010 (Environmental Resource Inventory) and all construction phase environmental standards in effect at the time of construction, including Division 23-3D-7 (Erosion and Sedimentation Control) and Section 23-3D-6100 (Fiscal Security in the Barton Springs Zone).
- (4) The water quality controls on the redevelopment site must provide a level of water quality treatment that is equal to or greater than that which was previously provided.
- (5) For a commercial, civic, industrial, or multi-family redevelopment, the owner or operator must obtain a permit under Section 23-3D-6090 (Barton Springs Zone Operating Permit) for both sedimentation/filtration ponds and SOS ponds.
- (6) For a site with more than 40 percent net site area impervious cover, the redevelopment must have:
 - (a) Sedimentation/filtration ponds for the entire site; or
 - (b) SOS ponds for a portion of the site, and sedimentation/filtration ponds for the remainder of the redeveloped site.
- (7) For a site with 40 percent or less net site area impervious cover, the redevelopment must have SOS ponds for the entire site.
- (8) The applicant must mitigate the effects of the redevelopment, if required by and in compliance with Subsection (E).
- (9) Redevelopment may not be located within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.

(D) **Council Approval.**

- (1) Applicability. Council approval of redevelopment under this section is required if the redevelopment:
 - (a) Includes more than 25 dwelling units;
 - (b) Is located outside the City's zoning jurisdiction;

- (c) Is proposed on property with an existing industrial or civic use;
 - (d) Is inconsistent with a neighborhood plan; or
 - (e) Will generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property.
- (2) Criteria. Council shall consider the following factors in determining whether to approve a proposed redevelopment under Subsection (D)(1):
- (a) Benefits of the redevelopment to the community;
 - (b) Whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
 - (c) The effects of off-site infrastructure requirements of the redevelopment; and
 - (d) Compatibility with the City's comprehensive plan.
- (E) **Mitigation Land Required.** If a site has a sedimentation/filtration pond, redevelopment of the property under this section requires the purchase or restriction of mitigation land in compliance with this subsection.
- (1) The combined gross site area impervious cover of the mitigation land and the portion of the redevelopment site treated by sedimentation/filtration ponds may not exceed 20 percent.
- (2) The mitigation standard may be satisfied by:
- (a) Paying into the Barton Springs Zone Mitigation Fund a non-refundable amount established by ordinance;
 - (b) Transferring to the City, in compliance with Paragraph (3), mitigation land approved by the Watershed Director within a watershed that contributes recharge to Barton Springs, either inside or outside the City's jurisdiction;
 - (c) Placing restrictions in accordance with Paragraph (3) on mitigation land approved by the Watershed Director within a watershed that contributes recharge to Barton Springs, either inside or outside the City's jurisdiction; or
 - (d) A combination of the mitigation methods described in Subparagraphs (a) - (c), if approved by the Watershed Director.
- (3) An applicant redeveloping under this section must pay all costs of restricting the mitigation land or transferring the mitigation land to the City, including the costs of:
- (a) An environmental site assessment without any recommendations for further clean-up, certified to the City not earlier than the 120th day before the closing date transferring land to the City;
 - (b) A category 1(a) land title survey, certified to the City and the title company not earlier than the 120th day before the closing date transferring land to the City;
 - (c) A title commitment with copies of all Schedule B and C documents, and an owner's title policy;
 - (d) A fee simple deed, or, for a restriction, a restrictive covenant approved as to form by the City Attorney;
 - (e) Taxes prorated to the closing date;
 - (f) Recording fees; and

- (g) Charges or fees collected by the title company.
- (F) **Administrative Rules.** The Watershed Director shall adopt rules establishing criteria for the review and approval of redevelopment under this section to ensure that the proposed mitigation, manner of development, and water quality controls offset the potential environmental impact of the redevelopment.

23-3D-2050 **Redevelopment Exception in the Water Supply Rural and Water Supply Suburban Watersheds**

- (A) **Applicability.** This section applies to property that is located in a Water Supply Rural or Water Supply Suburban watershed and that contains existing commercial, civic, or industrial development, or more than two existing residential dwelling units per lot, if the following requirements are met:
 - (1) No unpermitted development occurred on the site after January 1, 1992; and
 - (2) The applicant files an election for the property to be governed by this section and:
 - (a) a site plan application; or
 - (b) concurrent subdivision and site plan applications, if the exception established under this section is requested for the subdivision of property.
- (B) **Definition.** In this section, water quality controls means water quality controls that comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).
- (C) **Requirements for Redevelopment Exception.** The requirements of this article do not apply to the redevelopment of property under this section if the redevelopment meets all of the following conditions:
 - (1) The redevelopment may not increase the existing amount of impervious cover on the site.
 - (2) The redevelopment may not increase non-compliance, if any, with Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-4060 (Water Quality Transition Zone Development), Section 23-3D-5030 (Critical Environmental Features), or Section 23-3D-5040 (Wetland Protection).
 - (3) The redevelopment must comply with Section 23-3D-5010 (Environmental Resource Inventory) and all construction phase environmental standards in effect at the time of construction, including Division 23-3D-7 (Erosion and Sedimentation Control).
 - (4) The water quality controls for the redeveloped areas or an equivalent area on the site must provide a level of water quality treatment that is equal to or greater than that which was previously provided. At a minimum, the site must provide water quality controls for the redeveloped area or an equivalent area on the site.
 - (5) The applicant must mitigate the effects of the redevelopment, if required by and in compliance with Subsection (G).
 - (6) Redevelopment may not be located within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (D) **Council Approval.**

- (1) **Applicability.** Council approval of redevelopment under this section is required if **the redevelopment**:
 - (a) Includes more than 25 additional dwelling units;
 - (b) Is located outside the City's zoning jurisdiction;
 - (c) Is proposed on property with an existing industrial use;
 - (d) Is inconsistent with a neighborhood plan; or
 - (e) Will generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property.
- (2) **Criteria.** Council shall consider the following factors in determining whether to approve a proposed redevelopment:
 - (a) Benefits of the redevelopment to the community;
 - (b) Whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
 - (c) The effects of off-site infrastructure requirements of the redevelopment; and
 - (d) Compatibility with the City's comprehensive plan.
- (E) **Mitigation Land.** Redevelopment of property under this section requires the purchase or restriction of mitigation land in compliance with this subsection.
 - (1) The combined impervious cover of the mitigation land and the portion of the redevelopment treated by water quality controls may not exceed 20 percent of gross site area if in a Water Supply Rural watershed or 40 percent of gross site area if in a Water Supply Suburban watershed.
 - (2) The mitigation standard may be satisfied by:
 - (a) Paying into the Water Supply Mitigation Fund a nonrefundable amount established by ordinance;
 - (b) Transferring to the City in compliance with Paragraph (3) mitigation land approved by the Watershed Director within a water supply rural or water supply suburban watershed, either inside or outside the City's jurisdiction;
 - (c) Placing restrictions in compliance with Paragraph (3) on mitigation land approved by the Watershed Director within a water supply rural or water supply suburban watershed, either inside or outside the City's jurisdiction; or
 - (d) A combination of the mitigation methods described in Subparagraphs (a) - (c), if approved by the Watershed Director.
 - (3) An applicant redeveloping under this section must pay all costs of restricting the mitigation land or transferring the mitigation land to the City, including the costs of:
 - (a) An environmental site assessment without any recommendations for further clean-up, certified to the City not earlier than the 120th day before the closing date transferring land to the City;
 - (b) A category 1(a) land title survey, certified to the City and the title company not earlier than the 120th day before the closing date transferring land to the City;
 - (c) A title commitment with copies of all Schedule B and C documents, and an owner's title policy;

- (d) A fee simple deed, or, for a restriction, a restrictive covenant approved as to form by the City Attorney;
 - (e) Taxes prorated to the closing date;
 - (f) Recording fees; and
 - (g) Charges or fees collected by the title company.
- (F) **Administrative Rules.** The Watershed Director shall adopt rules establishing criteria for the review and approval of redevelopment under this section to ensure that the proposed mitigation, manner of development, and water quality controls offset the potential environmental impact of the redevelopment.

23-3D-2060 Land Use Commission Variances

- (A) **Variance Authorized.** This section authorizes the Land Use Commission to grant a variance from specified requirements of this article.
- (B) **Variance Procedures.**
 - (1) Application and Public Notice Requirements. A request for a variance under this section is subject to the general procedures for Land Use Commission variances established in Division 23-2F-1 (Variances and Special Exceptions), including Section 23-2F-1030 (Application Requirements) and Section 23-2F-1040 (Public Hearing and Notification).
 - (2) Limited to Site Plan or Subdivision. Except as provided in Division 23-2A-3 (Residential Development Regulations) or by another provision of this Title, a variance under this section may only be requested for a project that requires approval of a site plan or subdivision application.
 - (3) Environmental Commission Review. The Environmental Commission shall consider an application for a variance under this section and forward its recommendation to the Land Use Commission. The Land Use Commission shall consider the Environmental Commission's recommendation before acting on a variance.
 - (4) Applicant's Burden. An applicant for a variance under this section must establish that the request meets applicable criteria under Subsection (C).
- (C) **Criteria for Approval.**
 - (1) General Criteria. Except as provided in Subsections (B)(2)-(3), the Land Use Commission may grant a variance from a requirement of this article after determining that:
 - (a) The requirement will deprive the applicant of a privilege available to owners of other similarly situated property with approximately contemporaneous development subject to similar code requirements; and
 - (b) The variance:
 - (i) Is not necessitated by the scale, layout, construction method, or other design decision made by the applicant, unless the design decision provides greater overall environmental protection than is achievable without the variance;
 - (ii) Is the minimum deviation from the code standard necessary to allow a reasonable use of the property; and

- (iii) Does not create a significant probability of harmful environmental consequences; and
 - (iv) Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.
- (2) Supplemental Criteria. The Land Use Commission may grant a variance from a requirement of Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-4060 (Water Quality Transition Zone Development), or Section 23-3D-8120 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long), after determining that:
 - (a) The criteria for granting a variance in Subsection (A) are met;
 - (b) The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and
 - (c) The variance is the minimum deviation from the code requirement necessary to allow a reasonable, economic use of the entire property.
- (3) SOS Variances Prohibited. The Land Use Commission may not grant a variance from a standard of Division 23-3D-9 (Save Our Springs Initiative).
- (D) **Action on Variance Application.** In acting on a variance application, the Land Use Commission is subject to the procedures established in Division 23-2F-1 (Variances and Special Exceptions), including the requirement to conduct a public hearing and make written findings. The Commission may approve a variance subject to reasonable conditions under Section 23-2F-1060 (Conditions and Modifications).

23-3D-2070 Administrative Modifications

- (A) **Applicability.** The Watershed Director may grant an administrative modification from the requirements specified in this section, except that a modification may not be granted:
 - (1) from the requirements of Division 23-3D- 9 (Save Our Springs Initiative); or
 - (2) for development of a property if any portion of the property abuts or is within 500 feet of the shoreline of Lake Austin, measured horizontally.
- (B) **Application Requirements.**
 - (1) A request for an administrative modification under this section must be associated with a development application and must include any information required by the Watershed Director to evaluate whether the request meets the applicable requirements and criteria in Subsection (C) and (D) of this section.
 - (2) An applicant bears the burden of establishing that the requested modification meets all applicable requirements and criteria.
- (C) **Regulations Subject to Modification.** The Watershed Director may approve an administrative modification from the following regulations:
 - (1) Section 23-3D-4040 (Critical Water Quality Zone Development), if the modification is:
 - (a) Necessary to protect public health and safety, or if it would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed in the Environmental Criteria Manual;

- (b) Necessary to allow an athletic field in existence on October 28, 2013, to be maintained, improved, or replaced;
 - (c) Necessary to allow an athletic field to be located in an area not otherwise allowed under Section 23-3D-4040(B)(7); or
 - (d) Necessary to allow a hard surfaced trail to be located in an area not otherwise allowed under Section 23-3D-4040(B)(5) (Critical Water Quality Zone Development);
- (2) Section 23-3D-4040 (Critical Water Quality Zone Development), if the proposed development is within an Urban watershed and:
 - (a) Is located not less than 25 feet from the centerline of a waterway;
 - (b) Is located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual;
 - (c) Does not increase non-compliance, if any, with Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-5030 (Critical Environmental Features), or Section 23-3D-5040 (Wetland Protection); and
 - (d) Restores native vegetation and soils if development is removed from the critical water quality zone;
- (3) Subsection 23-3D-4050(A)(3) (Critical Water Quality Zone Street, Driveway, and Trail Crossings), only for development located outside the Barton Springs Zone;
- (4) Section 23-3D-5030 (Critical Environmental Features);
- (5) Subsection 23-3D-6030(D) (Water Quality Control and Green Stormwater Infrastructure Standards);
- (6) Section 23-3D-8020 (Interbasin Diversion);
- (7) Section 23-3D-8050 (Clearing for a Roadway);
- (8) Section 23-3D-8060 (Cut Standards) or Section 23-3D-8070 (Fill Standards), for:
 - (a) a cut or fill of not more than eight feet in a suburban watershed; or
 - (b) a public primary or secondary educational facility, within all watersheds; and
- (9) Subsection 23-3D-8080(A) (Spoil Disposal).
- (D) **Criteria for Approval.** The Watershed Director may grant a modification from a regulation under Subsection (C) only after determining that the proposed development meets the objectives of the standard for which the modification is requested and the following additional criteria:
 - (1) For property in the Barton Springs Zone, that the modification will result in water quality that is at least equal to the water quality achievable without the modification;
 - (2) For a modification to Subsection 23-3D-4040(B)(7) (Critical Water Quality Zone Development), which pertains to athletic fields, that the proposed work on or placement of the athletic field will have no adverse water quality impacts;
 - (3) For a modification to Section 23-3D-4050(A)(3) (Critical Water Quality Zone Street, Driveway, and Trail Crossings), that the design of the crossing will improve creek function and mitigate adverse water quality impacts as prescribed in the Environmental Criteria Manual;

- (4) For a modification to Section 23-3D-5030 (Critical Environmental Features), that the proposed measures preserve all characteristics of the critical environmental feature;
- (5) For a modification to 23-3D-6030(D), that the proposed water quality control is necessitated by unique site conditions, excluding any potential loss of impervious cover entitlements resulting from full compliance;
- (6) For a modification to Section 23-3D-8020 (Interbasin Diversion), that there are no adverse water quality or drainage impacts;
- (7) For a modification to Section 23-3D-8060 (Cut Standards) or Section 23-3D-8070 (Fill Standards), that the cut or fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway; and
- (8) For a modification to Section 23-3D-8080(A) (Spoil Disposal), use of the spoil provides one or more of the following necessary public benefits:
 - (a) Roadways;
 - (b) Stormwater detention facilities;
 - (c) Public or private park sites; and
 - (d) Building sites that comply with Section 23-3D-8060 (Cut Standards), 23-3D-8070 (Fill Standards), and Article 23-10E (Drainage).

23-3D-2080 Summary of Variances and Modifications

The Watershed Director shall prepare and maintain for public inspection a written summary of variances and modifications granted and denied under Sections 23-3D-2060 (Land Use Commission Variances) and 23-3D-2070 (Administrative Modifications).

Division 23-3D-3: Impervious Cover

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23-3D-3010 **Applicability of Impervious Cover Standards**

- (A) The impervious cover standards of this article do not restrict impervious cover on a single-family or two-family lot but apply to the subdivision as a whole.
- (B) For a subdivision with commercial, civic, industrial, or multi-family lots and an internal roadway, the impervious cover calculation for the platted lots will need to account for the roadway if the roadway exceeds the impervious cover limits within the right-of-way.
- (C) The impervious cover standards of this article do not apply to an application for a roadway improvement with less than 8,000 square feet of new impervious cover. For the purposes of this section, roadway improvements are limited to intersection upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops.

23-3D-3020 **Uplands Zones Established**

An uplands zone includes all land and waters not included in a critical water quality zone or a water quality transition zone.

23-3D-3030 **Net Site Area**

- (A) Net site area includes only the portions of a site that lie in an uplands zone and have not been designated for surface spray wastewater irrigation.
- (B) For land described in Subsection (A), net site area is the aggregate of:

- (1) 100 percent of the land with a gradient of 15 percent or less;
 - (2) 40 percent of the land with a gradient of more than 15 percent and not more than 25 percent; and
 - (3) 20 percent of the land with a gradient of more than 25 percent and not more than 35 percent.
- (C) Net site area does not apply in the Urban and Suburban watersheds.

23-3D-3040 Impervious Cover Calculations

- (A) Impervious cover is calculated in accordance with this section and the Environmental Criteria Manual.
- (B) Impervious cover calculations include:
 - (1) Roads;
 - (2) Driveways;
 - (3) Parking areas;
 - (4) Buildings;
 - (5) Concrete;
 - (6) Impermeable construction covering the natural land surface;
 - (7) For an uncovered wood deck that has drainage spaces between the deck boards and that is located over a pervious surface, 50 percent of the horizontal area of the deck; and
 - (8) The portion of a site used for the storage of scrap and metal salvage, including auto salvage.
- (C) Impervious cover calculations exclude:
 - (1) Sidewalks in a public right-of-way or public easement;
 - (2) Multi-use trails open to the public and located on public land or in a public easement;
 - (3) Water quality controls, excluding subsurface water quality controls;
 - (4) Detention basins, excluding subsurface detention basins;
 - (5) Ground level rainwater harvesting cisterns, excluding subsurface cisterns;
 - (6) Drainage swales and conveyances;
 - (7) The water surface area of ground level pools, fountains, and ponds;
 - (8) Areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians and are not constructed with compacted base;
 - (9) Porous pavement designed under the Environmental Criteria Manual, limited to only pedestrian walkways and multi-use trails, and located outside the Edwards Aquifer recharge zone;
 - (10) Fire lanes designed as prescribed in the Environmental Criteria Manual, that consist of interlocking pavers, and are restricted from routine vehicle access;

- (11) An access ramp for an existing single-family and two-family residential unit if:
 - (a) A person with a disability requires access to a dwelling entrance that meets the standards of Chapter 23-11, Article 23-11B, Division 23-11B-11, Section R320.6 (Visitable dwelling entrance);
 - (b) The building official determines that the ramp will not pose a threat to public health and safety;
 - (c) The ramp:
 - (i) Is no wider than 48 inches, except that any portion of a landing for the ramp required for turns may be no wider than 60 inches; and
 - (ii) May have a hand railing, but may not have a roof or walls; and
 - (d) The ramp is located in a manner that utilizes existing impervious cover to the greatest extent possible if:
 - (i) Impervious cover on the property is at or above the maximum amount of impervious cover allowed by this Title; or
 - (ii) If placement of the ramp would result in the property exceeding the maximum amount of impervious cover allowed by this Title; and
- (12) A subsurface portion of a parking structure if the Watershed Director determines that:
 - (a) The subsurface portion of the structure:
 - (i) Is located within an Urban or Suburban watershed;
 - (ii) Is below the grade of the land that existed before construction of the structure;
 - (iii) Is covered by soil with a minimum depth of two feet and an average depth of not less than four feet; and
 - (iv) Has an area not greater than fifteen percent of the site;
 - (b) The applicant submits an assessment of the presence and depth of groundwater at the site sufficient to determine whether groundwater will need to be discharged or impounded; and
 - (c) The applicant submits documentation that the discharge or impoundment of groundwater from the structure, if any, will be managed to avoid adverse effects on public health and safety, the environment, and adjacent property.
- (13) Construction of no more than 100 square feet of impervious cover for the placement of on-site recycling and organics diversion containers and related screening if:
 - (a) Existing development on the site meets or exceeds the amount of impervious cover allowed by this article or Chapter 23-4 (Zoning);
 - (b) The use of the exemption is the only feasible way for the development to comply with City Code Chapter 15-6, Article 5, as determined by the Director of Austin Resource Recovery; and
 - (c) The site is located outside of the Barton Springs Zone.

23-3D-3050 Impervious Cover Assumptions

- (A) This section applies to impervious cover calculations for two-family or single-family lots.
- (B) Except as provided in Subsection (C):
 - (1) For each lot greater than three acres in size, 10,000 square feet of impervious cover is assumed;
 - (2) For each lot greater than one acre and not more than three acres in size, 7,000 square feet of impervious cover is assumed;
 - (3) For each lot greater than 15,000 square feet and not more than one acre in size, 5,000 square feet of impervious cover is assumed;
 - (4) For each lot greater than 10,000 square feet and not more than 15,000 square feet in size, 3,500 square feet of impervious cover is assumed; and
 - (5) For each lot not more than 10,000 square feet in size, 2,500 square feet of impervious cover is assumed.
- (C) For a lot that is restricted to a lesser amount of impervious cover than prescribed by this section, the lesser amount of impervious cover is assumed. The manner in which the lot is restricted is subject to the approval of the director.
- (D) Except as provided in Subsection (C), this section does not restrict impervious cover on an individual lot.
- (E) The applicant must demonstrate that all proposed two-family or single-family lots have usable lot area that can reasonably accommodate the assumed square footage of impervious cover established by Subsection (B). The usable lot area must account for all applicable waterway setbacks, floodplains, steep slopes, critical environmental features, protected trees, on-site sewage facilities, and other relevant code restrictions.

23-3D-3060 Impervious Cover Limits for Urban Watersheds

- (A) Applicability
 - (1) This section applies to development in the uplands zone of an Urban watershed.
 - (2) Impervious cover limits in this section are expressed as percentages of gross site area for the entire site.
- (B) Maximum Impervious Cover
 - (1) Maximum impervious cover for development within the City's zoning jurisdiction is established in Article 23-4D (Specific to Zones).
 - (2) Maximum impervious cover for development outside the City's zoning jurisdiction is 80 percent.

23-3D-3070 Impervious Cover Limits for Suburban Watersheds

(A) Applicability

- (1) This section applies to development in the uplands zone of a Suburban watershed.
- (2) Impervious cover limits in this section are expressed as percentages of gross site area for the entire site.

(B) Maximum Impervious Cover

- (1) This subsection applies in the extraterritorial jurisdiction and in the portions of the Lake, Rattan, Buttercup, South Brushy, and Brushy Creek watersheds that are in the zoning jurisdiction.
 - (a) Impervious cover for a two-family or single-family residential use with a minimum lot size of 5,750 square feet may not exceed:
 - (i) 45 percent; or
 - (ii) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), 50 percent.
 - (b) Impervious cover for a two-family or single-family residential use with a lot smaller than 5,750 square feet in size may not exceed:
 - (i) 55 percent; or
 - (ii) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), 60 percent.
 - (c) Impervious cover for a multi-family residential use may not exceed:
 - (i) 60 percent; or
 - (ii) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), 65 percent.
 - (d) Impervious cover for a commercial, civic, or industrial use may not exceed:
 - (i) 65 percent; or
 - (ii) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), 70 percent.
 - (e) Impervious cover for mixed use may not exceed:
 - (i) The limits in Subsection (B)(1)(c) for the portion of the ground floor that is multi-family residential;
 - (ii) The limits in Subsection (B)(1)(d) for the portion of the ground floor that is commercial, civic, or industrial; and
 - (iii) Impervious cover for the entire site is based on the ratios determined on the ground floor.
- (2) This subsection applies in the portion of the zoning jurisdiction that is outside the Lake, Rattan, Buttercup, South Brushy, and Brushy Creek watersheds.
 - (a) Impervious cover for a two-family or single-family residential use with a minimum lot size of 5,750 square feet may not exceed:
 - (i) 50 percent; or

- (ii) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), 60 percent.
- (b) Impervious cover for a two-family or single-family residential use with a lot smaller than 5,750 square feet in size may not exceed:
 - (i) 55 percent; or
 - (ii) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), 60 percent.
- (c) Impervious cover for a multi-family residential use may not exceed:
 - (i) 60 percent; or
 - (ii) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), 70 percent.
- (d) Impervious cover for a commercial, civic, or industrial use may not exceed:
 - (i) 80 percent; or
 - (ii) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), 90 percent.
- (e) Impervious cover for mixed use may not exceed:
 - (i) The limits in Subsection (B)(2)(c) for the portion of the ground floor that is multi-family residential;
 - (ii) The limits in Subsection (B)(2)(d) for the portion of the ground floor that is commercial, civic, or industrial; and
 - (iii) Impervious cover for the entire site is based on the ratios determined on the ground floor.

23-3D-3080 Impervious Cover Limits for Water Supply Suburban Watersheds

- (A) Applicability
 - (1) This section applies to development in the uplands zone of a Water Supply Suburban watershed.
 - (2) Impervious cover limits in this section are expressed as percentages of net site area.
- (B) Maximum Impervious Cover
 - (1) Impervious cover for a two-family or single-family residential use may not exceed:
 - (a) 30 percent; or
 - (b) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), 40 percent.
 - (2) Impervious cover for a commercial, civic, industrial, multi-family, or mixed use may not exceed:
 - (a) 40 percent; or
 - (b) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), 55 percent.

23-3D-3090 Impervious Cover and Density Limits for Water Supply Rural Watersheds**(A) Applicability**

- (1) This section applies to development in the uplands zone of a Water Supply Rural watershed.
- (2) Density and impervious cover limits are based on net site area.

(B) Maximum Impervious Cover and Density

- (1) For a two-family or single family residential use, density may not exceed:
 - (a) One unit for each two acres, with a minimum lot size of three-quarters acre; or
 - (b) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), one unit for each acre, with a minimum lot size of one-half acre.
- (2) This subsection applies to a cluster housing development that maximizes common open space by grouping housing units to minimize individual yards and has a maximum lot area of 15,000 square feet for detached residential development.
 - (a) Density may not exceed:
 - (i) One unit for each acre; or
 - (ii) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), two units for each acre.
 - (b) At least 40 percent of the uplands area of a site must be retained in or restored to its natural state to serve as a buffer. The buffer must be contiguous to the development, and must receive overland drainage from the developed areas of the site unless a water quality control is provided. Use of the buffer is limited to fences, water quality controls that comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards), utilities that cannot reasonably be located elsewhere, irrigation lines not associated with wastewater disposal, and access for site construction. A wastewater disposal area may not be located in the buffer.
- (3) This subsection applies to a commercial, civic, industrial, multi-family, or mixed use.
 - (a) Impervious cover may not exceed:
 - (i) 20 percent; or
 - (ii) If development intensity is transferred under Section 23-3D-3120 (Transfers of Development Intensity), 25 percent.
 - (b) At least 40 percent of the uplands area of a site must be retained in or restored to its natural state to serve as a buffer. The buffer must be contiguous to the development, and must receive overland drainage from the developed areas of the site unless a water quality control is provided. Use of the buffer is limited to fences, water quality controls that comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards), utilities that cannot reasonably be located elsewhere, irrigation lines not associated with wastewater disposal, and access for site construction. A wastewater disposal area may not be located in the buffer.

23-3D-3100 Impervious Cover Limits for the Barton Springs Zone

- (A) This section applies to development in the Barton Springs Zone.
- (B) Maximum impervious cover for development in the Barton Springs Zone is established in Division 23-3D-9 (Save Our Springs Initiative).

23-3D-3110 Impervious Cover Limits for Educational Facilities

- (A) This section establishes impervious cover limits for development of a public primary or secondary educational facility.
- (B) In watersheds other than an Urban watershed or the Barton Spring Zone, the maximum impervious cover in an upland zone is 50 percent of net site area or 60 percent of net site area, if transfer of impervious cover is authorized and used.
- (C) In an Urban watershed, maximum impervious cover is the greater of:
 - (1) 65 percent gross site area; or
 - (2) The impervious cover allowed under Article 23-4D (Specific to Zones) for the base zoning district in which the educational facility is located.
- (D) In the Barton Springs Zone, maximum impervious cover is established by Division 23-3D-9 (Save Our Springs).

23-3D-3120 Transfers of Development Intensity

- (A) **General Standards.**
 - (1) An applicant who qualifies for a development intensity transfer under this section must comply with the standards of this subsection to effect the transfer.
 - (a) For transfers between two subdivided tracts, an applicant must:
 - (i) transfer development intensity to a receiving tract that is within the same watershed classification as the transferring tract unless the transferring and receiving tracts are both owned by the applicant and not separated by property held in separate ownership;
 - (ii) concurrently plat the transferring and receiving tracts and transfer all development intensity at that time of platting;
 - (iii) note the development intensity transfer on the plats of the transferring and receiving tracts, in a manner approved by the director; and
 - (iv) file in the deed records a restrictive covenant or other appropriate document, approved by the City Attorney, that describes the development intensity transfer approved under this section.
 - (b) For transfers between two site plans:
 - (i) An applicant must transfer development intensity to a receiving tract that is within the same watershed classification as the transferring tract; unless the transferring and receiving tracts are both owned by the applicant and not separated by property held in separate ownership;

- (ii) The transfer must be noted on the receiving and transferring site plans;
 - (iii) An applicant must file in the deed records a restrictive covenant or other appropriate document, approved by the City Attorney, that describes the development intensity transfer.
 - (iv) The transfer must occur before the receiving and transferring site plans are released.
- (c) For transfers within a single site plan, an applicant must file in the deed records a restrictive covenant or other appropriate document, approved by the City Attorney that describes the development intensity transfer approved under this section.

(B) Suburban Watersheds.

- (1) An applicant who complies with a provision of this subsection qualifies for the development intensity transfer described in the provision, subject to the standards in Subsection (A) and the impervious cover limitations in Section 23-3D-3070 (Impervious Cover Limits for Suburban Watersheds).
- (a) The applicant may transfer 20,000 square feet of impervious cover to an uplands zone for each acre of land in a critical water quality zone:
- (i) Dedicated to the City or another entity approved by the Watershed Director in fee simple and which the City or other approved entity accepts; or
 - (ii) On which restrictions are placed to the benefit of the City or other approved entity and which the City or other approved entity accepts; and
 - (iii) The applicant does not include in impervious calculations elsewhere.
- (b) The applicant may transfer 20,000 square feet of impervious cover to an uplands zone for each acre of land in an uplands zone:
- (i) Located either in the 100-year floodplain or in an environmentally sensitive area as determined by environmental resource inventory and approved by the Watershed Director; and
 - (ii) Dedicated to the City or another entity approved by the Watershed Director in fee simple and which the City or other approved entity accepts; or
 - (iii) On which restrictions are placed to the benefit of the City or other approved entity and which the City or other approved entity accepts; and
 - (iv) The applicant does not include in impervious calculations elsewhere.
- (c) Land dedicated in fee simple to the City under this subsection may also be to credited toward the parkland dedication standards of Article 23-3B (Parkland Dedication).

(C) Water Supply Suburban Watersheds.

- (1) An applicant who complies with a provision of this section qualifies for the development intensity transfer described in the provision, subject to the standards in Subsection (A) and the impervious cover limitations in Section 23-3D-3080 (Impervious Cover Limits for Water Supply Suburban Watersheds).
- (a) The applicant may transfer 15,000 square feet of impervious cover to an uplands zone for each acre of land in a critical water quality zone or water quality transition zone:

- (i) Dedicated to the City or another entity approved by the Watershed Director in fee simple and which the City or other approved entity accepts; or
 - (ii) On which restrictions are placed to the benefit of the City or other approved entity and which the City or other approved entity accepts; and
 - (iii) The applicant does not include in impervious calculations elsewhere.
- (b) Land dedicated in fee simple to the City under this subsection may also be credited toward the parkland dedication standards of Article 23-3B (Parkland Dedication).

(D) Water Supply Rural Watersheds.

- (1) An applicant who complies with a provision of this section qualifies for the development intensity transfer described in the provision, subject to the standards in Subsection (A) and the impervious cover limitations in Section 23-3D-3090 (Impervious Cover and Density Limits for Water Supply Rural Watersheds).
- (a) The applicant may transfer one single-family residential housing unit or 6,000 square feet of impervious cover for commercial, civic, industrial, or multi-family development to an uplands zone for each acre of land in a critical water quality zone or water quality transition zone:
- (i) Dedicated to the City or another entity approved by the Watershed Director in fee simple and which the City or other approved entity accepts; or
 - (ii) On which restrictions are placed to the benefit of the City or other approved entity and which the City or other approved entity accepts; and
 - (iii) The applicant does not include in impervious calculations elsewhere.
- (b) Land dedicated in fee simple to the City under this subsection may also be credited toward the parkland dedication standards of Article 23-3B (Parkland Dedication).

(E) Barton Springs Zone.

- (1) Development intensity may not be transferred in the Barton Springs Zone except as part of an adjustment under Section 23-3D-9080 (Limited Adjustment To Resolve Possible Conflicts With Other Laws).

Division 23-3D-4: Waterway and Floodplain Protection

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23-3D-4010 Waterway Classifications

- (A) This section classifies the waterways according to drainage area.
- (B) In all watersheds except Urban watersheds:
 - (1) A minor waterway has a drainage area of at least 64 acres and not more than 320 acres;
 - (2) An intermediate waterway has a drainage area of more than 320 acres and not more than 640 acres; and
 - (3) A major waterway has a drainage area of more than 640 acres.

23-3D-4020 Critical Water Quality Zones Established

- (A) In the Water Supply Rural watersheds, Water Supply Suburban watersheds, and Barton Springs Zone, a critical water quality zone is established along each waterway classified by Section 23-3D-4010 (Waterway Classifications).
 - (1) The boundaries of a critical water quality zone coincide with the boundaries of the 100-year floodplain calculated under fully developed conditions as prescribed in the Drainage Criteria Manual, except:
 - (a) For a minor waterway, the boundaries of the critical water quality zone are located not less than 50 feet and not more than 100 feet from the centerline of the waterway;
 - (b) For an intermediate waterway, the boundaries of the critical water quality zone are located not less than 100 feet and not more than 200 feet from the centerline of the waterway;
 - (c) For a major waterway, the boundaries of the critical water quality zone are located not less than 200 feet and not more than 400 feet from the centerline of the waterway; and
 - (d) For the main channel of Barton Creek, the boundaries of the critical water quality zone are located 400 feet from the centerline of the creek.

- (2) Notwithstanding the provisions of Subsections (A)(1)(a), (b), and (c), a critical water quality zone does not apply to a previously modified drainage feature serving a railroad or public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition, as prescribed in the Environmental Criteria Manual.
- (B) In the Suburban watersheds, a critical water quality zone is established along each waterway classified by Section 23-3D-4010 (Waterway Classifications).
 - (1) For a minor waterway, the boundaries of the critical water quality zone are located 100 feet from the centerline of the waterway.
 - (2) For an intermediate waterway, the boundaries of the critical water quality zone are located 200 feet from the centerline of the waterway.
 - (3) For a major waterway, the boundaries of the critical water quality zone are located 300 feet from the centerline of the waterway.
 - (4) The critical water quality zone boundaries may be reduced to not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway if the overall surface area of the critical water quality zone is the same or greater than the surface area that would be provided without the reduction, as prescribed in the Environmental Criteria Manual.
 - (5) Notwithstanding the provisions of Subsections (B)(1), (2), and (3), a critical water quality zone does not apply to a previously modified drainage feature serving a railroad or public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.
- (C) In an Urban watershed, a critical water quality zone is established along each waterway with a drainage area of at least 64 acres. This does not apply in the area bounded by Interstate Highway 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.
 - (1) The boundaries of the critical water quality zone coincide with the boundaries of the 100-year floodplain calculated under fully developed conditions as prescribed in the Drainage Criteria Manual; provided that the boundary is not less than 50 feet and not more than 400 feet from the centerline of the waterway.
 - (2) Notwithstanding the provisions of Subsection (C)(1), a critical water quality zone does not apply to a previously modified drainage feature serving a railroad or public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.
- (D) Critical water quality zones are established to include the inundated areas that constitute Lake Walter E. Long, Lake Travis, Lake Austin, Lady Bird Lake, and the Colorado River downstream of Lady Bird Lake.
- (E) Critical water quality zones are established along and parallel to the shorelines of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long.
 - (1) The shoreline boundary of a critical water quality zone:
 - (a) For Lake Travis, coincides with the 681.0 foot contour line;
 - (b) For Lake Austin, coincides with the 492.8 foot contour line;
 - (c) For Lady Bird Lake, coincides with the 429.0 foot contour line; and

- (d) For Lake Walter E. Long, coincides with the 554.5 foot contour line.
- (2) The width of a critical water quality zone, measured horizontally inland, is:
 - (a) 100 feet; or
 - (b) For a detached single-family residential use, 75 feet.
- (F) Critical water quality zones are established along and parallel to the shorelines of the Colorado River downstream of Lady Bird Lake.
 - (1) The shoreline boundary of a critical water quality zone coincides with the river's ordinary high water mark, as defined by Code of Federal Regulations Title 33, Section 328.3 (Definitions).
 - (2) The inland boundary of a critical water quality zone coincides with the boundary of the 100-year FEMA floodplain, except that the width of the critical water quality zone, measured horizontally inland, is not less than 200 feet and not more than 400 feet.

23-3D-4030 Water Quality Transition Zones Established

- (A) In the Water Supply Rural watersheds, Water Supply Suburban watersheds, and in the Barton Springs Zone, excluding Lake Austin, Lake Travis, and Lady Bird Lake, a water quality transition zone is established adjacent and parallel to the outer boundary of each critical water quality zone.
- (B) The width of a water quality transition zone is:
 - (1) For a minor waterway, 100 feet;
 - (2) For an intermediate waterway, 200 feet; and
 - (3) For a major waterway, 300 feet.

23-3D-4040 Critical Water Quality Zone Development

- (A) In all watersheds, development is prohibited in a critical water quality zone except as provided in this division. Development allowed in the critical water quality zone under this division must be revegetated and restored within the limits of construction as prescribed in the Environmental Criteria Manual.
- (B) A fence that does not obstruct flood flows is allowed in a critical water quality zone.
- (C) Low impact park development is allowed in a critical water quality zone if a program of fertilizer, pesticide, and herbicide use is approved by the Watershed Director, subject to the conditions in this subsection.
 - (1) Low impact park development includes multi-use trails, golf cart paths, the portions of a golf course left in a natural state, sustainable urban agriculture or community gardens, athletic fields, and an area or facility intended for outdoor recreational activities which does not significantly alter the existing natural vegetation or drainage patterns or increase erosion. Low impact park development does not include a parking lot.

- (2) In a Water Supply Rural watershed, Water Supply Suburban watershed, or the Barton Springs Zone, low impact park development is limited to multi-use trails, sustainable urban agriculture or community gardens, and an area or facility intended for outdoor recreational activities.
- (3) A master planned park that is approved by the Council may include recreational development other than that described in Subsection (C)(1) or (C)(2).
- (4) A hard surfaced trail may cross the critical water quality zone under Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings). A hard surfaced trail that does not cross the critical water quality zone may be located within the critical water quality zone only if:
 - (a) Designed in compliance with the Environmental Criteria Manual;
 - (b) Located outside the erosion hazard zone unless protective works are provided as prescribed in the Drainage Criteria Manual;
 - (c) Limited to 12 feet in width unless a wider trail is designated in the Urban Trails Master Plan, the Parks and Recreation Long Range Plan, or an adopted park master plan;
 - (d) Located not less than 25 feet from the centerline of a waterway if within an Urban watershed;
 - (e) Located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway if within a watershed other than an Urban watershed;
 - (f) Located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 23-3D-4020 (Critical Water Quality Zones Established); and
 - (g) Located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam.
- (5) Low impact park development may include sustainable urban agriculture or a community garden only if:
 - (a) In an Urban watershed and located not less than 25 feet from the centerline of a waterway, or in a watershed other than an Urban watershed and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;
 - (b) Located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 23-3D-4020 (Critical Water Quality Zones Established);
 - (c) Located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam;
 - (d) Designed in compliance with the Environmental Criteria Manual; and
 - (e) Limited to garden plots and paths, with no storage facilities or other structures over 500 square feet.
- (6) In a Suburban or Urban watershed, low impact park development may include an athletic field only if:

- (a) In an Urban watershed and located not less than 25 feet from the centerline of a waterway, or is in a Suburban watershed and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;
 - (b) Located not less than 50 feet from the shoreline of Lady Bird Lake and Lake Walter E. Long, as defined in Section 23-3D-4020 (Critical Water Quality Zones Established);
 - (c) Located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam; and
 - (d) The applicant submits to the Watershed Director a maintenance plan to keep the athletic field well vegetated and minimize compaction, as prescribed in the Environmental Criteria Manual.
- (D) The standards of this subsection apply along Lake Travis, Lake Austin, or Lady Bird Lake.
 - (1) A dock, public boat ramp, bulkhead or marina, and necessary access and appurtenances, are allowed in a critical water quality zone subject to compliance with Division 23-4E-5 (Docks, Bulkheads, and Shoreline). For a single-family residential use, necessary access may not exceed the minimum area of land disturbance required to construct a single means of access from the shoreline to a dock.
 - (2) Disturbed areas must be restored in compliance with the Environmental Criteria Manual and the following standards:
 - (a) Within a lakefront critical water quality zone, or an equivalent area within 25 feet of a shoreline, restoration must include:
 - (i) At least one native shade tree and one native understory tree, per 500 square feet of disturbed area; and
 - (ii) One native shrub per 150 square feet of disturbed area; and
 - (b) Remaining disturbed areas must be restored per standard specifications for native restoration.
 - (3) Within the shoreline setback area defined by Section 23-4D-2070 (Lake Austin (LA) Residential Zone) and within the overlay established by Section 23-4D-9100 (Lake Austin Overlay Zone), no more than 30 percent of the total number of shade trees of 8 inches or greater, as designated in the Environmental Criteria Manual, may be removed.
 - (4) Before a building permit may be issued or a site plan released, approval by the Watershed Director is required for chemicals used to treat building materials that will be submerged in water.
 - (5) Bank erosion above the 100-year floodplain may be stabilized within a lakefront critical water quality zone if the restoration meets the standards of Subsection (D)(2).
 - (6) A retaining wall, bulkhead, or other erosion protection device must be designed and constructed to minimize wave return and wave action in compliance with the Environmental Criteria Manual. A shoreline modification within the wave action zone with a greater than 45 degree vertical slope for any portion greater than one foot in height is not allowed on or adjacent to the shoreline of a lake, unless the shoreline modification is located within an existing man-made channel.

- (E) A utility line, including a storm drain, is prohibited in the critical water quality zone, except as provided in Subsection (E) or for a necessary crossing. A necessary utility crossing may cross into or through a critical water quality zone only if:
 - (1) The utility line follows the most direct path into or across the critical water quality zone to minimize disturbance;
 - (2) The depth of the utility line and location of associated access shafts are not located within an erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual; and
 - (3) In the Barton Springs Zone, is approved by the Watershed Director.
- (F) In the Urban and Suburban watersheds, a utility line may be located parallel to and within the critical water quality zone if:
 - (1) In an Urban watershed and located not less than 50 feet from the centerline of a waterway, or in a watershed other than Urban and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;
 - (2) Located not less than 50 feet from the shoreline of Lady Bird Lake and Lake Walter E. Long, as defined in Section 23-3D-4020 (Critical Water Quality Zones Established);
 - (3) Located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam;
 - (4) Designed in compliance with the Environmental Criteria Manual;
 - (5) Located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual; and
 - (6) The development includes either riparian restoration of an area within the critical water quality zone equal in size to the area of disturbance in compliance with the Environmental Criteria Manual, or payment into the Riparian Zone Mitigation Fund of a non-refundable amount established by ordinance.
- (G) In-channel detention basins and in-channel wet ponds are allowed in the critical water quality zone only if designed in accordance with the Environmental Criteria Manual.
- (H) Floodplain modifications are prohibited in the critical water quality zone unless:
 - (1) The floodplain modifications proposed are necessary to address an existing threat to public health and safety, as determined by the Watershed Director;
 - (2) The floodplain modifications proposed would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed in the Environmental Criteria Manual; or
 - (3) The floodplain modifications proposed are necessary for development allowed in the critical water quality zone by Section 23-3D-4040 (Critical Water Quality Zone Development), 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), or Section 23-3D-8120 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long).
- (I) In the Urban and Suburban watersheds, vegetative filter strips, rain gardens, biofiltration ponds, areas used for irrigation or infiltration of stormwater, or other controls as prescribed in rule are allowed in the critical water quality zone if:

- (1) In an Urban watershed and located not less than 50 feet from the centerline of a waterway, or in a watershed other than Urban and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;
 - (2) Located not less than 50 feet from the shoreline of Lady Bird Lake and Lake Walter E. Long, as defined in Section 23-3D-4020 (Critical Water Quality Zones Established);
 - (3) Located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam;
 - (4) Located outside the 100-year floodplain; and
 - (5) Located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (J) Development associated with power generation, transmission, or distribution at the Decker Creek Power Station is allowed in the critical water quality zone.
- (K) A residential lot that is 5,750 square feet or less in size may not include any portion of a critical water quality zone.

23-3D-4050 Critical Water Quality Zone Street, Driveway, and Trail Crossings

- (A) A public street, private street, or driveway may not cross the critical water quality zone of any waterway unless:
- (1) Necessary to comply with the standards of Article 23-9F (Street Design) or necessary to provide primary access to at least two contiguous acres or at least five residential units;
 - (2) The alignment minimizes disturbance to the creek, riparian zone, and other environmental features as specified in the Environmental Criteria Manual; and
 - (3) The crossing does not utilize culverts and is designed in compliance with the Drainage and Environmental Criteria Manuals.
- (B) Notwithstanding Subsection (A), improvements are allowed to existing public streets, private streets, and driveways crossing the critical water quality zone that are determined by the Watershed Director to be necessary to protect public health and safety for the purposes of flood mitigation or erosion.
- (C) In all watersheds, multi-use trails may cross a critical water quality zone of any waterway if:
- (1) Designed in compliance with the Environmental Criteria Manual; and
 - (2) The development demonstrates no additional adverse impact from flood or erosion potential.

23-3D-4060 Water Quality Transition Zone Development

- (A) **Water Supply Suburban Watersheds.**
- (1) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:

- (a) Development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings); and
 - (b) Minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification criteria in the Environmental Criteria Manual.
 - (2) In a water quality transition zone that does not lie over the South Edwards Aquifer recharge zone, the impervious cover of the land area of a site may not exceed 18 percent. In determining land area, land in the 100-year floodplain is excluded.
 - (3) Water quality controls may be located in a water quality transition zone that does not lie over the South Edwards Aquifer recharge zone.
- (B) **Water Supply Rural Watersheds.**
- (1) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:
 - (a) Development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings); and
 - (b) Minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification criteria in the Environmental Criteria Manual.
 - (2) Development is prohibited in a water quality transition zone that lies outside the South Edwards Aquifer recharge zone, except for:
 - (a) Development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings);
 - (b) Minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification guidelines of the Environmental Criteria Manual;
 - (c) Streets; and
 - (d) Two-family or single-family residential development with a minimum lot size of two acres and a density of not more than one unit for each three acres, excluding acreage in the 100-year floodplain.
 - (3) A lot that lies within a critical water quality zone must also include at least two acres in a water quality transition zone or uplands zone.
- (C) **Barton Springs Zone Watersheds**
- (1) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:
 - (a) Development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings); and
 - (b) Minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification criteria in the Environmental Criteria Manual.

- (2) Development is prohibited in a water quality transition zone that lies outside the South Edwards Aquifer recharge zone, except for:
 - (a) Development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings);
 - (b) Minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification guidelines of the Environmental Criteria Manual;
 - (c) Streets; and
 - (d) Two-family or single-family residential housing with a minimum lot size of two acres and a density of not more than one unit for each three acres, excluding acreage in the 100-year floodplain.

23-3D-4070 Floodplain Modification

- (A) Floodplain modification within a critical water quality zone is prohibited except as allowed under Section 23-3D-4040 (Critical Water Quality Zone Development).
- (B) Floodplain modification outside a critical water quality zone is allowed only if the modification proposed:
 - (1) Is necessary to address an existing threat to public health and safety, as determined by the Watershed Director;
 - (2) Would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed in the Environmental Criteria Manual;
 - (3) Is located within a floodplain area classified as in fair or poor condition, as determined by a functional assessment of floodplain health as prescribed in the Environmental Criteria Manual; or
 - (4) Is necessary for development allowed by Section 23-3D-4040 (Critical Water Quality Zone Development), 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), or Section 23-3D-8120 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long).
- (C) All floodplain modifications must:
 - (1) Designed to accommodate existing and fully-vegetated conditions;
 - (2) Encourage sound engineering and ecological practices, prevent and reduce adverse water quality impacts, and encourage the stability and integrity of floodplains and waterways, as prescribed in the floodplain modification criteria in the Environmental Criteria Manual;
 - (3) Restore floodplain health, or provide mitigation if restoration is infeasible, to support natural functions and processes as prescribed in the floodplain modification criteria in the Environmental Criteria Manual; and
 - (4) Comply with the standards of Article 23-10E (Drainage), the Drainage Criteria Manual, and the Environmental Criteria Manual.
- (D) If mitigation is required by this section, it may be satisfied by:

- (1) Paying into the Riparian Zone Mitigation Fund a nonrefundable amount established by ordinance;
- (2) Transferring in fee simple or placing restrictions on mitigation land approved by the Watershed Director and meeting the following conditions:
 - (a) Located within the same watershed classification;
 - (b) In compliance with the procedures in Section 23-3D-2040 (Redevelopment Exception in the Barton Springs Zone), Subsection (H)(3);
 - (c) Dedicated to or restricted for the benefit of the City or another entity approved by the Watershed Director and which the City or other approved entity accepts; and
 - (d) An amount proportionate to the amount of area within the existing floodplain that is proposed to be modified, as prescribed in the Environmental Criteria Manual; or
- (3) A combination of the mitigation methods described in Subparagraphs (1) and (2), if approved by the Watershed Director.

Division 23-3D-5: Protection for Special Features

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23-3D-5010 Environmental Resource Inventory

- (A) An applicant must file an environmental resource inventory with the director for proposed development located on a tract:
 - (1) Within the Edwards Aquifer recharge or contributing zone;
 - (2) Within the Drinking Water Protection Zone;
 - (3) Containing a water quality transition zone;
 - (4) Containing a critical water quality zone;
 - (5) Containing a floodplain; or
 - (6) With a gradient of more than 15 percent.
- (B) An environmental resource inventory must:
 - (1) Identify critical environmental features and propose protection measures for the features;
 - (2) Provide an environmental justification for spoil disposal locations or roadway alignments;
 - (3) Propose methods to achieve overland flow;
 - (4) Describe proposed industrial uses and the pollution abatement program; and
 - (5) Be completed as prescribed in the Environmental Criteria Manual.
- (C) An environmental resource inventory must include the following elements:
 - (1) A hydrogeologic report, which must:
 - (a) Generally describe the topography, soils, and geology of the site;
 - (b) Identify springs and significant point recharge features on the site;
 - (c) Demonstrate that proposed drainage patterns will protect the quality and quantity of recharge at significant point recharge features; and
 - (d) Identify all recorded and unrecorded water wells, both on the site and within 150 feet of the boundary of the site.
 - (2) A vegetation report, which must:
 - (a) Demonstrate that the proposed development:

- (i) Preserve to the greatest extent practicable the significant trees and vegetation on the site; and
 - (ii) Provide maximum erosion control and overland flow benefits from the vegetation.
- (b) Include one of the following:
 - (i) A tree survey of all trees with a diameter of at least eight inches measured four and one-half feet above natural grade level; or
 - (ii) On approval of the Watershed Director, aerial imagery that was photographed between the months of April and November; and
 - (iii) A vegetation survey that shows the approximate locations and types of all significant vegetation.
- (3) A wastewater report, which must:
 - (a) Provide environmental justification for a sewer line location in a critical water quality zone;
 - (b) Address construction techniques and standards for wastewater lines;
 - (c) Include calculations of drainfield or wastewater irrigation areas;
 - (d) Describe alternative wastewater disposal systems used over the Edwards Aquifer recharge zone; and
 - (e) Address on-site collection and treatment systems, their treatment levels, and effects on receiving watercourses or the Edwards Aquifer.
- (D) The Watershed Director may permit an applicant to exclude from an environmental resource inventory information required by this section after determining that the information is unnecessary because of the scope and nature of the proposed development.

23-3D-5020 Pollutant Attenuation Plan

An applicant proposing an industrial use that is not completely enclosed in a building must provide a pollutant attenuation plan in compliance with the Environmental Criteria Manual.

23-3D-5030 Critical Environmental Features

- (A) Drainage patterns for proposed development must be designed to protect critical environmental features from the effects of runoff from developed areas, and to maintain the catchment areas of recharge features in a natural state. Special controls must be used where necessary to avoid the effects of erosion, sedimentation, or high rates of flow.
- (B) A residential lot may not include a critical environmental feature or a critical environmental feature buffer zone.
- (C) This subsection prescribes the standards for critical environmental feature buffer zones.

- (1) A buffer zone is established around each critical environmental feature described in this article.
 - (a) Except as provided in Subsection (C)(1)(b), the width of the buffer zone is 150 feet from the edge of the critical environmental feature.
 - (b) For a point recharge feature, the buffer zone coincides with the topographically defined catchment basin, except that the width of the buffer zone from the edge of the critical environmental feature is:
 - (i) Not less than 150 feet;
 - (ii) Not more than 300 feet; and
 - (iii) Calculated in compliance with the Environmental Criteria Manual.
 - (2) Within a buffer zone described in this subsection:
 - (a) The natural vegetative cover must be retained to the maximum extent practicable;
 - (b) Construction is prohibited, except for restoration activities or the construction of educational trails as approved by the Watershed Director; and
 - (c) Wastewater disposal or irrigation is prohibited.
 - (3) If located at least 50 feet from the edge of the critical environmental feature, the prohibition of Subsection (C)(2)(b) does not apply to:
 - (a) A yard or hiking trail;
 - (b) A recharge basin approved under Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards) that discharges to a point recharge feature; or
 - (c) An innovative runoff management practice approved by the Watershed Director that is designed to address the standards of this section, enhance the recharge of groundwater and the discharge of springs, and maintain the function of critical environmental features.
 - (4) Perimeter fencing with not less than one access gate must be installed at the outer edge of the buffer zone for all point recharge features. The fencing must comply with the Standard Specifications Manual.
 - (5) The owner must maintain the buffer zone in compliance with standards in the Environmental Criteria Manual to preserve the water quality function of the buffer.
 - (6) All critical environmental feature locations and required setbacks must be shown on preliminary subdivision plans, site plans, or other permits as determined by the **Watershed** director.
 - (7) All critical environmental feature locations must be shown on final plats.
- (D) When voids in the rock substrate are uncovered during development, the following protocol must be followed:
- (1) Construction in the area of the void must cease while the applicant conducts a preliminary investigation of the void as prescribed in the Environmental Criteria Manual.

- (2) The applicant must contact a City environmental inspector to schedule further investigation by the City of the void as prescribed in the Environmental Criteria Manual if the preliminary investigation indicates that the void:
 - (a) Is at least one square foot in total area;
 - (b) Blows air from within the substrate;
 - (c) Consistently receives water during any rain event; or
 - (d) Potentially transmits groundwater.
- (3) Construction may only proceed after mitigation measures are reviewed and approved by the Watershed Director.

23-3D-5040 Wetland Protection

- (A) Wetlands must be protected in all watersheds except in the area bounded by Interstate Highway 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.
- (B) Protection methods for wetlands include:
 - (1) Appropriate setbacks that preserve the wetlands or wetland functions;
 - (2) Wetland mitigation, including wetland replacement;
 - (3) Wetland restoration or enhancement; or
 - (4) Use of wetlands for water quality controls.
- (C) The Watershed Director may approve:
 - (1) The removal and replacement of a wetland; or
 - (2) The elimination of setbacks from a wetland that is proposed to be used as a water quality control.

EC Motion #6

City staff draft a provision that requires best management practices to address property where the primary use is a dog park.

EC Motion #7

Staff come up with best management practices for 3-6 unit missing middle housing that includes GSI that are visible, such as porous pavement or rainwater harvesting systems, even if the 3 to 6 unit developments are proposed for lots previously zoned for single-family residential.

EC Motion #8

Staff coordinate with the Water Forward Task Force to come up with an appropriate water quality volume for beneficial and auxiliary use.

Division 23-3D-6: Water Quality Control and Green Stormwater Infrastructure Standards

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23-3D-6010 **Applicability of Water Quality Control Standards**

#5

- (A) In the Barton Springs Zone, water quality controls are required for all development.
- (B) In a watershed other than a Barton Springs Zone watershed, water quality controls are required for development:
 - (1) Located in the water quality transition zone;
 - (2) Of a golf course, play field, or similar recreational use, if fertilizer, herbicide, or pesticide is applied; or
 - (3) If the total of new and redeveloped impervious cover exceeds 8,000 square feet.
- (C) All new development must provide for removal of floating debris from stormwater runoff.
- (D) The water quality control standards in this division do not require water quality controls on a single-family or two-family lot but apply to the residential subdivision as a whole.
- (E) The water quality control standards in this division do not require water quality controls for a roadway improvement with less than 8,000 square feet of new impervious cover. For the purposes of this section, roadway improvements are limited to intersection upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops.

23-3D-6020 **Previous Waivers and Special Exceptions**

Water quality controls in compliance with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards) are required for a commercial, civic, industrial, or multi-family development with more than 20 percent impervious cover that has been granted a waiver of previous water quality standards or a special exception under this article.

23-3D-6010 (B)(3): Applicability of Water Quality Control Standards

EC Motion #5

Section 23-3D-6010 (B)(3) should be revised as follows: (B) In a watershed other than a Barton Springs Zone watershed, water quality controls are required for a development: (1) Located in the water quality transition zone; (2) Of a golf course, play field, or similar recreational use, if fertilizer, herbicide, or pesticide is applied; or (3) If total of new and redeveloped impervious cover exceeds 5,000 square feet.

23-3D-6030 Water Quality Control and Green Stormwater Infrastructure Standards

- (A) A water quality control must achieve the load reduction standards prescribed in the Environmental Criteria Manual.
- (B) A water quality control must capture and treat the water draining to the control from the contributing area. The required capture volume is the first one-half inch of runoff and an additional one-tenth of an inch of runoff for each 10 percent increase in impervious cover over 20 percent for the contributing area.
- (C) A water quality control must be designed in compliance with the Environmental Criteria Manual and must be accessible for maintenance and inspection.
- (D) The required water quality treatment must be provided using green stormwater control measures, as prescribed in the Environmental Criteria Manual.
- (E) Notwithstanding Subsection (D), all or part of the required water quality treatment may be provided using other water quality controls for:
 - (1) Residential subdivisions;
 - (2) Areas with land uses or activities that may generate highly contaminated runoff, as prescribed in the Environmental Criteria Manual;
 - (3) A project that provides water quality treatment for currently untreated, developed off-site areas of at least 10 acres in size; or
 - (4) Sites with greater than 80 percent gross site area impervious cover that install a rainwater harvesting system sized to meet the on-site demand for landscape irrigation as demonstrated by a water balance in compliance with the Environmental Criteria Manual.
- (F) The location of a water quality control:
 - (1) Must avoid recharge features to the greatest extent possible;
 - (2) Must be shown on the slope map, preliminary plan, site plan, or subdivision construction plan, as applicable; and
 - (3) In a water supply rural watershed, may not be in the 40 percent buffer zone, unless the control disturbs less than 50 percent of the buffer, and is located to maximize overland flow and recharge in the undisturbed remainder of the 40 percent buffer zone.
- (G) An impervious liner is required for structural water quality controls over the Edwards Aquifer Recharge Zone. If a liner is required and there are multiple controls in series, liners are only required for the first control in the series.
- (H) Approval by the Watershed Director is required for a proposed water quality control that is not described in the Environmental Criteria Manual. The applicant must substantiate the pollutant removal efficiency of the proposed control with published literature or a verifiable engineering study. Review and approval is based on:
 - (1) Technical merit;
 - (2) Compliance with the standards of this article for water quality protection and improvement;
 - (3) Resource protection and improvement;
 - (4) Advantages over standard practices; and

- (5) Anticipated maintenance requirements.
- (l) In the Barton Springs Zone, stormwater controls must be placed in sequence if necessary to remove the required amount of pollutant. The sequence of controls must be:
 - (1) Based on the Environmental Criteria Manual or generally accepted engineering principles; and
 - (2) Designed to minimize maintenance requirements.

23-3D-6040 Optional Payment Instead of Structural Controls in Urban Watersheds

- (A) The Watershed Director shall identify and prioritize water quality control facilities for the Urban watersheds in an Urban Watersheds Structural Control Plan.
- (B) An Urban Watersheds Structural Control Fund is established for use in the design and construction of water quality control facilities in the Urban watersheds.
- (C) Instead of providing the water quality controls required by Section 23-3D-6010 (Applicability of Water Quality Control Standards), in an Urban watershed an applicant may request approval to deposit with the City a nonrefundable cash payment. The director shall review the request and approve or disapprove the request based on the standards in the Environmental Criteria Manual.
- (D) The director shall deposit a payment made under this section in the Urban Watersheds Structural Control Fund.

23-3D-6050 Optional Payment Instead of Structural Controls in Suburban Watersheds

- (A) A Suburban Watersheds Structural Control Fund is established for use in the design and construction of water quality control facilities in the Suburban watersheds.
- (B) Instead of providing the water quality controls required by Section 23-3D-6010 (Applicability of Water Quality Control Standards), in a Suburban watershed an applicant may request approval to deposit with the City a nonrefundable cash payment. The director shall review the request and approve or disapprove the request based on the standards in the Environmental Criteria Manual. To be eligible to request the optional payment, the development must:
 - (1) Be located within the zoning jurisdiction;
 - (2) Be a residential subdivision less than two acres in size; and
 - (3) Demonstrate exemption from the preliminary plan standard as determined by Section 23-5B-2010 (Preliminary Plan Requirement).
- (C) The director shall deposit a payment made under this section in the Suburban Watersheds Structural Control Fund.

23-3D-6060 Cost Recovery Program

- (A) An applicant who redevelops property in an Urban watershed and is required to construct a water quality control may qualify for cost participation by the City for:

- (1) Construction of the water quality control; or
- (2) Optional payment instead of construction of the water quality control under Section 23-3D-6040 (Optional Payment Instead of Structural Controls In Urban Watersheds).

23-3D-6070 Water Quality Control Maintenance And Inspection

- (A) For a commercial, civic, industrial, or multi-family development:
 - (1) The record owner of the development must maintain the water quality control serving the development in compliance with the Environmental Criteria Manual, whether or not the control is located on the same property as the development. The record owner must provide the City proof of the right to access and maintain the control if it is not located on the same property as the development.
 - (2) If more than one development is served by a single water quality control, the record owners of the control and all developments served by the control must be jointly and severally responsible for maintenance of the control in compliance with the Environmental Criteria Manual.
 - (3) The City shall inspect each water quality control that is not a subsurface control at least once every three years to ensure that the control is being maintained in compliance with the Environmental Criteria Manual. If the control fails inspection requiring an additional inspection, the Watershed Director may charge a re-inspection fee.
 - (4) The record owner of a subsurface water quality control must provide the Watershed Director with a maintenance plan and an annual report from an engineer verifying that the control is in proper operating condition.
- (B) For a two-family or single-family development:
 - (1) The City shall be responsible for maintenance of a water quality control only after the control has been accepted for maintenance by the City.
 - (2) The City will accept a water quality control for maintenance upon determining that it meets all standards of the Environmental Criteria Manual and, if applicable, Section 23-3D-6100 (Fiscal Security In The Barton Springs Zone).
 - (3) Until the City accepts a water quality control for maintenance, the record owner(s) of the control and the development served must maintain the control in compliance with the Environmental Criteria Manual.
- (C) The Watershed Director may authorize an alternative arrangement for maintenance of a water quality control in compliance with the Environmental Criteria Manual. If an alternative arrangement is approved by the Watershed Director, the City Attorney shall determine whether an agreement is necessary; the agreement must be approved by the City Attorney and filed of record.

23-3D-6080 Dedicated Fund

- (A) The Finance Department shall establish a dedicated fund to:
 - (1) Monitor water quality controls; and

- (2) Maintain water quality controls for single-family and two-family residential development.
- (B) An applicant must pay the required fee into the fund:
 - (1) For development that does not require a site plan, when the applicant posts fiscal security for the subdivision or requests that the director record the subdivision plat, whichever occurs first; or
 - (2) For development that requires a site plan, when the site plan is approved.
- (C) The Watershed Director shall administer the fund, allocate the fund for appropriate projects, and report annually to the Council regarding the status of the fund and the monitoring and maintenance program described in this section.

23-3D-6090 Barton Springs Zone Operating Permit

- (A) In the Barton Springs Zone, the owner or operator of a commercial, civic, industrial, or multi-family development is required to obtain an annual operating permit for the required water quality controls.
- (B) To obtain an annual operating permit, an applicant must:
 - (1) Provide the Development Services Department with:
 - (a) A maintenance plan; and
 - (b) The information necessary to verify that the water quality controls are in proper operating condition; and
 - (2) Pay the required, nonrefundable fee.
- (C) The Development Services Department may verify that a water quality control is in proper operating condition by either inspecting the water quality control or accepting a report from an engineer.
- (D) The Development Services Department shall issue an operating permit after determining that:
 - (1) The applicant has complied with the standards of Subsection (B); and
 - (2) The water quality controls are in proper operating condition.
- (E) The Development Services Director shall transfer an operating permit to a new owner or operator if, not later than 30 days after a change in ownership or operation, the new owner or operator:
 - (1) Signs the operating permit;
 - (2) Accepts responsibility for the water quality controls; and
 - (3) Documents the transfer on a form provided by the Development Services Department.

23-3D-6100 Fiscal Security In The Barton Springs Zone

- (A) For development in the Barton Springs Zone, an applicant must provide the City with fiscal security to ensure that water quality controls are maintained properly. The director shall calculate the amount of fiscal security in compliance with the formula in the Environmental Criteria Manual.
- (B) The director may not return the fiscal security to the applicant until:
 - (1) The expiration of one year after the completion of the development; and
 - (2) The director receives verification that the controls are constructed in compliance with the approved design by:
 - (a) The applicant's delivery of a certified engineering concurrence letter; and
 - (b) A report from a City inspector.

Division 23-3D-7: Erosion and Sedimentation Control

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23-3D-7010 Erosion and Sedimentation Control

- (A) Temporary erosion and sedimentation controls:
 - (1) Are required for all development until permanent revegetation has been established; and
 - (2) Must be removed after permanent revegetation has been established.

23-3D-7020 Development Completion

- (A) Development is not completed until:
 - (1) Permanent revegetation is established; and
 - (2) The Development Services Department:
 - (a) Receives the engineer’s concurrence letter; and
 - (b) Certifies installation of the vegetation for acceptance.
- (B) Development must be completed in compliance with Subsection (A) before the City may accept maintenance responsibility for streets, drainage facilities, or utilities, or issue a certificate of occupancy or compliance, unless the City and the applicant enter into an agreement to ensure completion of the revegetation within a named period.

23-3D-7030 Modification of Erosion Control and Construction Sequencing Plans

- (A) A City inspector may modify an erosion control plan or construction sequencing plan in the field:
 - (1) Without notice to the permit holder, if the modification is a minor change to upgrade erosion controls or reflect construction progress; and
 - (2) After two days written notice to the permit holder, if:
 - (a) The inspector determines that an erosion control or the construction sequencing is inappropriate or inadequate; and

- (b) The director has confirmed in writing the inspector's determination.

23-3D-7040 Additional Erosion and Sedimentation Control Standards in the Barton Springs Zone

- (A) This section provides additional erosion and sedimentation control standards for development in the Barton Springs Zone.
- (B) A temporary erosion and sedimentation control plan and a water quality plan certified by an engineer and approved by the Development Services Department is required.
 - (1) The plans must describe the temporary structural controls, site management practices, or other approved methods that will be used to control off-site sedimentation until permanent revegetation is certified as completed under Section 23-3D-7020 (Development Completion).
 - (2) The temporary erosion control plan must be phased to be effective at all stages of construction. Each temporary erosion control method must be adjusted, maintained, and repaired as necessary.
- (C) The Development Services Department may require a modification of the temporary erosion control plan after determining that the plan does not adequately control off-site sedimentation from the development. Approval by the Development Services Department and the engineer who certified the plan is required for a major modification of the plan.
- (D) The applicant must designate a project manager who is responsible for compliance with the erosion and sedimentation control and water quality plan standards during development.
- (E) The length of time between clearing and final revegetation of development may not exceed 18 months, unless extended by the director.
- (F) If an applicant does not comply with the deadline in Subsection (E), or does not adequately maintain the temporary erosion and sedimentation controls, the director shall notify the applicant in writing that the City will repair the controls or revegetate the disturbed area at the applicant's expense unless the work is completed or revegetation is begun not later than the 15th day after the date of the notice.
- (G) A person commits an offense if the person allows sediment from a construction site to enter a waterway by failing to maintain erosion controls or failing to follow the approved sequence of construction.

23-3D-7050 Temporary Storage Areas; Topsoil Protection

- (A) The site plan or subdivision construction plan must designate the areas to be cleared for temporary storage of spoils or construction equipment. Areas cleared for temporary storage must be located and restored in compliance with the Environmental Criteria Manual.
- (B) During and after site grading and construction operations, the topsoil must be protected and vegetation left in place to the maximum extent practicable in compliance with the Environmental Criteria Manual.

- (C) For areas on the site that are to remain pervious post-development, any soils that are compacted during site grading and construction operations must be decompacted in compliance with the Environmental Criteria Manual and the Standard Specifications Manual.

23-3D-7060 Fiscal Surety

A site plan may be approved only if the applicant provides fiscal surety, consistent with the requirements of Section 23-2B-3020 (Fiscal Surety), for:

- (1) Installing and maintaining erosion and sedimentation controls throughout construction on the site;
- (2) Revegetating the site; and
- (3) Performing on-site and off-site cleanup.

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EC Motion #9

Extend cut and fill requirements and construction on slope regulations to developments in the Urban Watershed, and directs staff to develop variance criteria to address cut and fill for foundation systems and underground parking.

Division 23-3D-8: Additional Standards in All Watersheds

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23-3D-8010 Overland Flow

- (A) Drainage patterns must be designed as prescribed in the Environmental Criteria Manual to:
 - (1) Prevent erosion;
 - (2) Maintain and restore infiltration and recharge of local seeps and springs;
 - (3) Attenuate the harm of contaminants collected and transported by stormwater; and
 - (4) Where possible, disconnect impervious cover, maintain and restore overland sheet flow, maintain natural drainage features and patterns, and disperse runoff back to sheet flow.
- (B) Where applicable, the applicant must design an enclosed storm drain to mitigate potential adverse water quality impacts by using methods to prevent erosion and dissipate discharges from outlets. Applicant must locate discharges to maximize overland flow through buffer zones or grass-lined swales wherever practicable.

23-3D-8020 Interbasin Diversion

- (A) Development may not divert stormwater from one watershed to another, except as authorized by this section.
- (B) A proposed diversion of less than 20 percent of the site based on gross site area or less than one acre, whichever is smaller, may be allowed if the applicant demonstrates that:

- (1) Existing drainage patterns are maintained to the extent feasible; and
- (2) There are no adverse water quality or drainage impacts.

23-3D-8030 Construction on Slopes

- (A) The standards of this section do not apply in an Urban watershed.
- (B) Construction of a Roadway or Driveway
 - (1) An applicant may not construct a roadway or driveway on a slope with a gradient of more than 15 percent unless the construction is necessary to provide primary access to:
 - (a) At least two contiguous acres with a gradient of 15 percent or less; or
 - (b) Building sites for at least five residential units.
 - (2) For construction described in this subsection, a cut or fill must be revegetated, or if a cut or fill has a finished gradient of more than 33 percent, stabilized with a permanent structure. This does not apply to a stable cut.
- (C) Construction of a Building or Parking Area
 - (1) An applicant may not construct:
 - (a) A building or parking structure on a slope with a gradient of more than 25 percent; or
 - (b) Except for a parking structure, a parking area on a slope with a gradient of more than 15 percent.
 - (2) An applicant may construct a building or parking structure on a slope with a gradient of more than 15 percent and not more than 25 percent if the standards of this subsection are met.
 - (a) Impervious cover on slopes with a gradient of more than 15 percent may not exceed 10 percent of the total area of the slopes.
 - (b) The terracing techniques in the Environmental Criteria Manual are required for construction that is uphill or downhill of a slope with a gradient of more than 15 percent.
 - (c) Hillside vegetation may not be disturbed except as necessary for construction, and disturbed areas must be restored with native and adapted vegetation as prescribed in the Environmental Criteria Manual.
 - (d) For construction described in this subsection, a cut or fill must be revegetated, or if a cut or fill has a finished gradient of more than 33 percent, stabilized with a permanent structure. This does not apply to a stable cut.
- (D) Subdivision Notes
 - (1) A preliminary subdivision plan that proposes a single family residential lot on a slope with a gradient of more than 15 percent must include a plan note identifying the lot and describing the standards of Subsection (D)(2).
 - (2) A final plat that proposes a single family residential lot on a slope with a gradient of more than 15 percent must include a plat note:

- (a) Identifying the lot; and
- (b) Stating the impervious cover and construction standards for the lot.

23-3D-8040 Clearing of Vegetation

- (A) Clearing of vegetation is prohibited unless the director determines that the clearing:
 - (1) Is in compliance with a released site plan or subdivision construction plan;
 - (2) Is allowed under this section or Section 23-3D-8050 (Clearing for a Roadway); or
 - (3) Is not development, as that term is defined in Division 23-2M-1 (Terms).
- (B) Clearing of vegetation for agricultural operations is prohibited if an application to develop for a non-agricultural use has been granted or is pending. The director may waive this prohibition after determining that the clearing has a bona fide agricultural purpose and is unrelated to the proposed development or sale of the land for non-agricultural uses.
- (C) An applicant may clear an area up to 15 feet wide or remove a tree with a diameter of not more than eight inches to perform surveying or geologic testing in preparation for site plan or final plat approval.

23-3D-8050 Clearing for a Roadway

- (A) An applicant may clear an area for road construction after site plan or final plat approval in compliance with this section.
- (B) Roadway clearing width may not exceed:
 - (1) Twice the roadway surface width, or the width of the dedicated right-of-way, whichever is less; or
 - (2) For road construction problem areas of less than 300 feet in length, two and one-half times the roadway width.
- (C) The director may grant an administrative modification to Subsection (B) if required by unusual topographic conditions.
- (D) If clearing on slopes could result in materials sliding onto areas beyond the clearing widths described in Subsection (B), retaining walls or other preventative methods are required.
- (E) The length of time between rough cutting and final surfacing of roadways may not exceed 18 months.
- (F) If the applicant does not meet the deadline described in Subsection (E), the City shall notify the applicant in writing that the City will finish the roadways or revegetate the disturbed area at the applicant's expense unless the work is completed not later than the 60th day after the date of the notice.

23-3D-8060 Cut Standards

- (A) Cuts on a tract of land may not exceed four feet of depth, except:
 - (1) In an Urban watershed;
 - (2) In a roadway right-of-way;
 - (3) For construction of a building foundation or swimming pool, excluding the surrounding pool deck;
 - (4) For construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:
 - (a) The design and location of the facility within the site minimize the amount of cut over four feet;
 - (b) The cut is the minimum necessary for the appropriate functioning of the facility; and
 - (c) The cut is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
 - (5) For utility construction or a wastewater drain field, if the area is restored to natural grade; or
 - (6) In a state-permitted sanitary landfill or a sand or gravel excavation located in the extraterritorial jurisdiction, if:
 - (a) The cut is not in a critical water quality zone;
 - (b) The cut does not alter a 100-year floodplain;
 - (c) The landfill or excavation has an erosion and restoration plan approved by the City; and
 - (d) All other applicable City Code provisions are met.
- (B) A cut must be restored and stabilized.
- (C) A roadway cut must be contained within the roadway clearing width described in Section 23-3D-8050 (Clearing for a Roadway).

23-3D-8070 Fill Standards

- (A) Fill on a tract of land may not exceed four feet of depth, except:
 - (1) In an Urban watershed;
 - (2) In a roadway right-of-way;
 - (3) Under a foundation with sides perpendicular to the ground, or with pier and beam construction;
 - (4) For construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:
 - (a) The design and location of the facility within the site minimize the amount of fill over four feet;

- (b) The fill is the minimum necessary for the appropriate functioning of the facility; and
 - (c) The fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
- (5) For utility construction or a wastewater drain field; or
- (6) In a state-permitted sanitary landfill located in the extraterritorial jurisdiction, if:
 - (a) The fill is derived from the landfill operation;
 - (b) The fill is not placed in a critical water quality zone or a 100-year floodplain;
 - (c) The landfill operation has an erosion and restoration plan approved by the City; and
 - (d) All other applicable City Code provisions are met.
- (B) A fill area must be restored and stabilized.
- (C) Fill for a roadway must be contained within the roadway clearing width described in Section 23-3D-8050 (Clearing for a Roadway).

23-3D-8080 Spoil Disposal

- (A) A spoil disposal site may not be located in a 100-year floodplain or on a slope with a gradient of more than 15 percent.
- (B) The location of a spoil disposal site must be reasonably accessible. An access route:
 - (1) Must use existing and approved roadways, if possible; and
 - (2) May not be located in a waterway, unless:
 - (a) A reasonable alternative is not available; or
 - (b) The access route is for the construction of a water quality control.
- (C) A spoil disposal site and an access route must be restored and revegetated in compliance with the Environmental Criteria Manual.

23-3D-8090 Blasting Prohibited

- (A) Blasting on property located in the Edwards Aquifer recharge zone is prohibited in a critical water quality zone or a water quality transition zone, unless the applicant demonstrates that a feasible alternative does not exist.
- (B) Blasting is prohibited within 300 feet of a critical environmental feature, unless the applicant demonstrates that a feasible alternative does not exist.

23-3D-8100 Wastewater Restrictions

- (A) A lot in the Edwards Aquifer recharge zone with private on-site sewage facilities must demonstrate compliance with City Code Chapter 15-5 (Private Sewage Facilities).
- (B) Land application of treated wastewater effluent is prohibited:
 - (1) On a slope with a gradient of more than 15 percent;
 - (2) In a critical water quality zone;
 - (3) In a 100-year floodplain;
 - (4) On the trunk of trees required to be surveyed as prescribed in the Environmental Criteria Manual;
 - (5) In the buffer zone established around a critical environmental feature under Section 23-3D-5030 (Critical Environmental Features); or
 - (6) During wet weather conditions.

23-3D-8110 Storm Sewer Discharge

A certificate of occupancy may not be issued for development subject to this article unless the development is in compliance with Chapter 6-5, Article 5 (Discharges Into Storm Sewers Or Watercourses).

23-3D-8120 Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long

- (A) The standards of this section apply to development on or adjacent to Lake Austin, Lady Bird Lake, or Lake Walter E. Long.
- (B) Except as otherwise provided by this section, placing fill or dredging in a lake is prohibited.
- (C) A retaining wall, bulkhead, or other erosion protection device may not capture or recapture land from a lake unless doing so is required to restore the shoreline to whichever of the following boundaries would encroach the least into the lake:
 - (1) The shoreline as it existed 10 years prior to the date of application, with documentation as prescribed in the Environmental Criteria Manual; or
 - (2) The lakeside boundary of the subdivided lot line.
- (D) A bulkhead may be replaced in front of an existing bulkhead once, if:
 - (1) The existing bulkhead was legally constructed;
 - (2) Construction of the replacement bulkhead does not change the location of the shoreline by more than six inches; and
 - (3) The Watershed Director determines that there is no reasonable alternative to replacement of the bulkhead in the location of the existing bulkhead.
- (E) The director may approve up to 25 cubic yards of dredging in a lake if the dredging is necessary for navigation safety.

23-3D-8130 Threatened or Endangered Species Notification

- (A) This section applies in areas of the planning jurisdiction that may contain habitat for federally listed threatened or endangered species, as defined in the Environmental Criteria Manual.
- (B) On submission of an application for a subdivision or site plan in an area described in Subsection (A), the applicant must give notice of the application to the appropriate authority, including:
 - (1) United States Fish and Wildlife Service;
 - (2) Texas Parks and Wildlife Department;
 - (3) Balcones Canyonlands Conservation Plan Coordinating Committee Secretary; and
 - (4) **Travis or Williamson County, as applicable.**
- (C) The notice must include a statement that the development could cause the loss of threatened or endangered species habitat.

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Division 23-3D-9: Save Our Springs Initiative

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23-3D-9010 Title and Purpose

- (A) This division, to be known as the Save Our Springs Initiative, (SOS hereafter) sets out special requirements for development of land in watersheds within the City's planning jurisdiction which contribute to Barton Springs.
- (B) This division codifies the Save Our Springs Initiative Petition Ordinance as adopted by popular vote on August 8, 1992 and amended by the council.

23-3D-9020 Amendment

This division may be repealed or amended only by an affirmative vote of a three-quarters majority of the city council.

23-3D-9030 Declaration of Intent

The people of the City declare their intent to preserve a clean and safe drinking water supply, to prevent further degradation of the water quality in Barton Creek, Barton Springs, and the Barton Springs Edwards Aquifer, to provide for fair, consistent, and cost effective administration of the City's watershed protection ordinances, and to promote the public health, safety, and welfare. The City recognizes that the Barton Springs Edwards Aquifer is more vulnerable to pollution from urban development than any other major

groundwater supply in Texas, and that the measures set out in this division are necessary to protect this irreplaceable natural resource.

23-3D-9040 Pollution Prevention Required

- (A) In the watersheds contributing to Barton Springs, no development nor any revision, extension, or amendment thereof, may be approved unless it is designed, carried out, and maintained on a site-by-site basis to meet the pollution prevention requirements set forth below for the life of the project. In order to prevent pollution, impervious cover for all such development must be limited to a maximum of 15 percent in the entire recharge zone, 20 percent of the contributing zone within the Barton Creek watershed, and 25 percent in the remainder of the contributing zone. The impervious cover limits shall be calculated on a net site area basis. In addition, runoff from such development shall be managed through water quality controls and on-site pollution prevention and assimilation techniques so that no increases occur in the respective average annual loadings of total suspended solids, total phosphorus, total nitrogen, chemical oxygen demand, total lead, cadmium, E. coli, volatile organic compounds, pesticides, and herbicides from the site. For a given project, impervious cover shall be reduced if needed to assure compliance with these pollutant load restrictions.
- (B) Within the watersheds contributing to Barton Springs, Section 23-3D-4020 (Critical Water Quality Zones Established) of the Land Development Code is amended so that in no event shall the boundary of the critical water quality zone be less than 200 feet from the centerline of a major waterway or be less than 400 feet from the centerline of the main channel of Barton Creek. No pollution control structure, or residential or commercial building, may be constructed in the critical water quality zone in these watersheds.

23-3D-9050 No Exemptions, Special Exceptions, Waivers or Variances

The requirements of this division are not subject to the exemptions, special exceptions, waivers, or variances allowed by Division 23-3D-2 (Exceptions and Variances). Adjustments to the application of this division to a specific project may be granted only as set out in Section 23-3D-9080 (Limited Adjustment To Resolve Possible Conflicts With Other Laws) below.

23-3D-9060 Application to Existing Tracts, Platted Lots, and Public Schools

- (A) This division does not apply to development on a single platted lot or a single tract of land that is not required to be platted before development if the lot or tract existed on November 1, 1991 and the development is either:
 - (1) Construction, renovation, additions to, repair, or development of a single-family, single-family attached, or a duplex structure used exclusively for residential purposes, and construction of improvements incidental to that residential use; or
 - (2) Development of a maximum of 8,000 square feet of impervious cover, including impervious cover existing before and after the development.

- (B) This division does not apply to development of public primary or secondary educational facilities if the City and the school district enter into a development agreement approved by a three-quarters vote of the city council protecting water quality pursuant to Section 13-2-502(n)(7) of the Land Development Code.
- (C) This division does not apply to the replacement of development which is removed as a result of right-of-way condemnation.
- (D) This division does not apply to a roadway improvement with less than 8,000 square feet of new impervious cover. For the purposes of this section, roadway improvements are limited to intersection upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops.

23-3D-9070 Expiration of Prior Approvals

- (A) Within the watersheds contributing to Barton Springs, the following provisions shall govern the expiration of certain prior approvals:
 - (1) Previously Approved Preliminary Subdivision Plan:
 - (a) Unless it has or will have expired sooner, a preliminary subdivision plan initially approved before the effective date of this division expires one year after the effective date of this division, or two years after its initial approval whichever date is later, unless an application for final plat approval is filed before this expiration date and a final plat is approved no later than 180 days after filing.
 - (b) No approved preliminary plan, and no portion of an approved preliminary plan, shall be valid or effective after the expiration date established by this part, or shall be extended, revised, or renewed to remain effective after the expiration date, except according to Subsection (3) of this section.
 - (2) Previously Approved Site Plan:
 - (a) Unless it has or will have expired sooner, a site plan or phase or portion thereof initially approved before the effective date of this division shall expire one year after the effective date of this division, or three years after its initial approval, whichever date is later, unless:
 - (i) An application is filed before this expiration date for building permits for all structures shown on the site plan or phase or portion thereof and designed for human occupancy, and the building permits are approved and remain valid and certificates of occupancy are issued no later than two years after this expiration date; or
 - (ii) If no building permits are required to construct the structures shown on a site plan described in Subsection (2)(a) of this section, construction begins on all buildings shown on the site plan or portion or phase thereof before this expiration date, and the buildings are diligently constructed and completed, and certificates of compliance or certificates of occupancy are issued no later than two years after this expiration date.
 - (b) No approved site plan, and no separate phase or portion of an approved site plan, shall be valid or effective after the expiration date established by this part, or shall be extended, revised, or renewed to remain effective after the expiration date, except according to Subsection (3) of this section.

- (3) Approved Plans Which Comply: An approved preliminary subdivision plan, portion of a preliminary plan, approved site plan, or separate phase or portion of an approved site plan that complies with this division or that is revised to comply with this division does not expire under Subsection (1) or (2) of this section and remains valid for the period otherwise established by law.

23-3D-9080 Limited Adjustment to Resolve Possible Conflicts with Other Laws

- (A) This division is not intended to conflict with the United States Constitution or the Texas Constitution or to be inconsistent with federal or state statutes that may preempt a municipal ordinance or the Austin City Charter.
- (B) The terms of this division shall be applied consistently and uniformly. If a three-quarters majority of the city council concludes, or a court of competent jurisdiction renders a final judgment concluding that this division, as applied to a specific development project or proposal violates a law described in Subsection (A) of this section, the city council may, after a public hearing, adjust the application of this division to that project to the minimum extent required to comply with the conflicting law. Any adjustment shall be structured to provide the maximum protection of water quality.

23-3D-9090 Construction of Ordinance

This division is intended to be cumulative of other City ordinances. In case of irreconcilable conflict in the application to a specific development proposal between a provision of this division and any other ordinance, the provision which provides stronger water quality controls on development shall govern. If a word or term used in this division is defined in the Austin City Code of 1981, as that code was in effect on November 1, 1991, that word or term shall have the meaning established by the Austin City Code of 1981 in effect on that date, unless modified in this division.

23-3D-9100 Reduce Risk of Accidental Contamination

Within one year of the effective date of this division the City of Austin Environmental and Conservation Services Department shall complete a study, with citizen input, assessing the risk of accidental contamination by toxic or hazardous materials of the Barton Springs Edwards Aquifer and other streams within the City and its extraterritorial jurisdiction. The assessment shall inventory the current and possible future use and transportation of toxic and hazardous materials in and through the City, and shall make recommendations for City actions to reduce the risk of accidental contamination of the Barton Springs Edwards Aquifer and of other water bodies. Within 60 days of completion of the study, and following a public hearing, the city council shall take such actions deemed necessary to minimize risk of accidental contamination of city waters by hazardous or toxic materials.

23-3D-9110 Efficient and Cost-Effective Water Quality Protection Measures

In carrying out City efforts to reduce or remedy runoff pollution from currently developed areas or to prevent runoff pollution from currently developed or developing areas, the city council shall assure that funds for remedial, retrofit or runoff pollution prevention measures shall be spent so as to achieve the maximum water quality benefit, and shall assure that the need for future retrofit is avoided whenever feasible.

23-3D-9120 Severability

If any provision, section, subsection, sentence, clause, or phrase of this division, or the application of the same to any person, property, or set of circumstances is for any reason held to be unconstitutional, void, or otherwise invalid, the validity of the remaining portions of this division shall not be affected by that invalidity; and all provisions of this division are severable for that purpose.

23-3D-9130 Adoption of Water Quality Measures

The adoption of this division is not intended to preclude the adoption, at any time, by a majority vote of the city council of stricter water quality requirements upon development in the watersheds contributing to Barton Springs or of further measures to restore and protect water quality.

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PC Motion #12

Recommend approval of Article 23-3E (Affordable Housing Bonus Program), but with direction for staff to develop revisions that will address the following concerns:

1. Establish as additional items of intent for the program to:
 - a. meet the annual affordable housing goals set forth by city council;
 - b. generally permit sites to utilize affordable bonus entitlements; and
 - c. maximize affordable units in high-opportunity areas, whether built on-site or financed via fee-in-lieu.
2. Reinstate expedited review for SMART Housing and expand it to the Affordable Housing Bonus Program at all stages for projects that participate in the program per the original requirements of 2000.
3. Explore a Super Density Bonus for large-scale affordable projects that offer over 50% of units as affordable
4. Establish a Density Bonus pilot program with a revision and review window of 18-months with an annual re-evaluation period to ensure the program is properly calibrated, and staff and consultants to continue to hold workshops with stakeholders, including affordable housing advocates, builders, affordable housing builders, construction companies, developers, and community advocates to continue to work out the bonus program.
5. Staff to use White Exhibit 1 Pages 20-25 (Edits to the SMART program) and White Exhibit 1 Pages 45-48 (SIMPLICITY & HOUSING BLUEPRINT GOALS - yellow from Housing Coalition) as a directive to prioritize those changes as they review this Article

PC Motion #13

Upon Council's review of Article 23-3E, Council consider sending that division back to the Planning Commission for additional feedback.

Article 23-3E: Affordable Housing

Contents

Division 23-3E-1: Citywide Affordable Housing Bonus Program

- 23-3E-1010 Purpose and Intent
 - 23-3E-1020 Applicability and Review Authority
 - 23-3E-1030 General Provisions for the Citywide Affordable Housing Bonus Program
 - 23-3E-1040 **Affordable Housing** Bonus Calculation
 - 23-3E-1050 Alternatives to On-site Production of Bonus Units **for Residential Developments**
 - 23-3E-1060 Non-Residential and Mixed-Use Bonus Fee
 - 23-3E-1070 Fee Adjustment and Update
 - 23-3E-1080 Application Procedures
 - 23-3E-1090 Land Use Restrictions
 - 23-3E-1100 **Reporting**, Compliance, and Enforcement
-

Division 23-3E-2: Downtown Density Bonus Program

- 23-3E-2010 Purpose and Applicability
 - 23-3E-2020 Review Authority
 - 23-3E-2030 Application Review
 - 23-3E-2040 Downtown Density Bonus Gatekeeper Requirements
 - 23-3E-2050 Changes in Design of Proposed Building
 - 23-3E-2060 Community Benefits
 - 23-3E-2070 Rainey Street Subdistrict Bonus
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Division 23-3E-3: Tenant Notification and Relocation

- 23-3E-3010 Purpose and Applicability
- 23-3E-3020 Tenant Notification Required
- 23-3E-3030 Additional Notice Requirements
- 23-3E-3040 Tenant Relocation Program
- 23-3E-3050 Tenant Relocation Assistance – Developer Funded
- 23-3E-3060 Tenant Relocation Assistance – City Funded
- 23-3E-3070 Offenses

Division 23-3E-4: S.M.A.R.T. Housing

- 23-3E-4010 Administration
- 23-3E-4020 Program Requirements
- 23-3E-4030 Affordability Requirements
- 23-3E-4040 Required Affordability Period
- 23-3E-4050 Fee Waivers and Exemptions
- 23-3E-4060 Reporting, Compliance, and Enforcement

Division 23-3E-5: Additional Affordable Housing Incentives

- 23-3E-5010 Additional **Affordable Housing Incentives**

Division 23-3E-6: Affordability Impact Statements

- 23-3E-6010 Affordability Impact Statements

Division 23-3E-1: Citywide Affordable Housing Bonus Program

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23-3E-1010 Purpose and Intent

- (A) The purpose of this division is to establish general requirements and procedures for the submittal and review of an application for the Citywide Affordable Housing Bonus Program (AHBP), which is a voluntary, incentive-based density bonus program that provides enhanced development potential for projects that increase the supply of moderate to lower-cost housing consistent with the requirements of this division.
- (B) The intent of the AHBP is to:
 - (1) Implement the goals and policies of the Austin Comprehensive Plan and the Austin Strategic Housing Blueprint;
 - (2) Increase housing supply, diversity, and affordability while preserving and enhancing the unique character of the City's neighborhoods; and
 - (3) Narrow the housing deficit for households that cannot afford market-priced rental or for-sale housing.

23-3E-1020 Applicability and Review Authority

(A) Applicability

- (1) The AHBP applies citywide **in zones in which a bonus is available or offered**, except in the following zones:
 - (a) **Downtown Zones.** A density bonus request in the Downtown Core (DC) Zone and Commercial Center (CC) Zone must meet the requirements of Division 23-3E-2 (Downtown Density Bonus Program).
 - (b) **University Neighborhood Overlay Zone.** A density bonus request in the University Neighborhood Overlay (UNO) Zone must meet the requirements of Section 23-4D-9130 (University Neighborhood Overlay Zone).

- (c) **Planned Unit Development (PUD) Zone.** A density bonus request in the Planned Unit Development (PUD) Zone must meet the requirements of Section 23-4D-8110 (Planned Unit Development (PUD) Zone).
- (d) **Former Title 25.** A density bonus request in the Former 25 (F25) Zone, established in Section 23-4D-8100 (Former 25 Zone), shall be subject to the requirements and density bonus incentives, if any, as available under Former Title 25.
- (2) Requirements for participation in the AHBP are determined based on the zone in which the development is proposed, as provided under Article 23-4D (Specific to Zones).

(B) Review Authority

- (1) Authority and responsibility for implementing this chapter is delegated to the Housing Director, which is referred to in this chapter as “the director.” However, the city manager may from time to time delegate particular functions under this chapter to one or more other City departments, which shall control over the general delegation in this subsection.
- (2) In exercising authority under this chapter, the director may consult with other City departments regarding issues within that department’s area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).

23-3E-1030 General Provisions for the Citywide Affordable Housing Bonus Program

- (A) **Approval.** An affordable housing bonus under this division is approved administratively and does not require a discretionary approval, including an amendment to the comprehensive plan or this Title.
- (B) **Source of Income.** An applicant cannot deny a prospective tenant housing based solely on the prospective tenant’s participation in the Housing Choice Voucher Program or in any other housing voucher program that provides rental assistance.
- (C) **Availability**
 - (1) All affordable housing units must be made available concurrently with the market rate units for single-phase developments and in compliance with the director-approved phasing plan for multi-phase developments, except as provided in Section 23-3E-1050 (Alternatives to On-site Production of Bonus Units for Residential Development).
 - (a) For multi-phase developments, an applicant must enter into a written project phasing plan in a form approved by the director. The phasing plan must be filed with the director before building permits are issued and must contain a plan for the sequence of construction of all residential units, including the construction of the affordable units.
 - (2) Failure to comply with this Subsection (C) may result in the withholding of site plan approvals, building permits, or certificates of occupancy.

- (D) **Proportional Bedroom Count.** Affordable units must be delivered and maintained such that the mix of the number of bedrooms in the affordable units is the same as the mix of the number of bedrooms in the market rate units, except that the provision of dedicated two or three-bedroom affordable units may count as two or three one-bedroom/efficiency **affordable** units at the discretion of the director.
- (E) **Floating Rental Units.** The locations of affordable rental units in a development may change over time, if the property owner maintains the total number of required affordable units for the duration of the affordability period.
- (F) **Dispersion and Access**
 - (1) On-site affordable housing units should be reasonably dispersed throughout the development to avoid clustering of affordable units.
 - (2) All affordable housing units must be accessible by the same requirements as the market-rate units.
 - (3) Occupants of affordable housing units must have access to all on-site amenities available to market-rate units, including the same access to common areas and facilities afforded to occupants of market-rate units.
- (G) **Design Standards.** Affordable units created through the AHBP may have different interior finishes, features, and appliances so long as the affordable units are functionally equivalent to the market-rate units in the development and the interior components in the affordable units are durable, good quality, and consistent with federal, state, and local standards for new housing.
- (H) **Affirmative Marketing.** Each development will have an affirmative marketing and outreach plan, approved by the director, that is consistent with U.S. Department of Housing and Urban Development regulations for the length of the affordability period. This plan will ensure that developments have in place affirmative fair housing marketing policies in soliciting buyers and tenants, in determining their eligibility, and in concluding sales and rental transactions. The plan will include ways to publicize or market the availability of housing opportunities to low- and moderate-income households and to protected classes, as well as information on fair housing laws and protections.

23-3E-1040 Affordable Housing Bonus Calculation

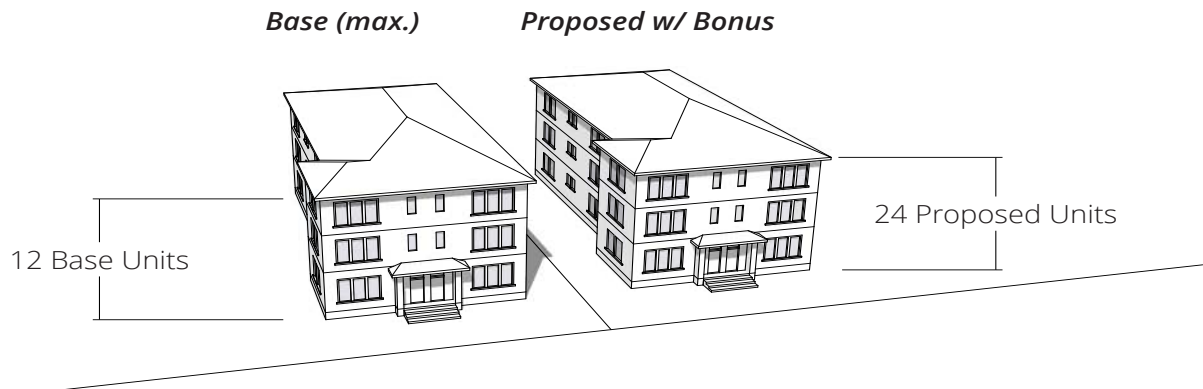
- (A) **Affordable Housing Bonus Incentives**
 - (1) As an incentive to provide affordable housing, an applicant may apply for a bonus in compliance with this division.
 - (2) Bonuses include additional:
 - (a) Units in a main building;
 - (b) Dwelling units per acre;
 - (c) Floor area ratio; or
 - (d) Height.
 - (3) A residential bonus area is calculated as indicated in Table (A) (Bonus Calculation).
 - (4) A non-residential bonus area is calculated as indicated in Section 23-3E-1060 (Non-Residential and Mixed Use Bonus Fee).

Table 23-3E-1040(A) Bonus Calculation ¹		
Incentive	Non-Residential Bonus Square Feet ²	Residential Bonus Units ^{2, 3}
Additional Units in Main Building (max.) (See Figure (1))	N/A	Number of units that exceed the maximum units allowed by base entitlements $Proposed\ Units - Allowed\ Base\ Units$
Additional Dwelling Units per Acre (DUA) (See Figure (2))	N/A	Number of units that exceed the maximum units allowed by base entitlements $Proposed\ Units \times \left(\frac{Proposed\ Development\ DUA - Allowed\ Base\ DUA}{Proposed\ Development\ DUA} \right)$
Additional Floor Area Ratio (FAR) (See Figure (3))	Non-residential gross floor area ⁴ multiplied by the proportion of gross floor area that exceeds the maximum gross floor area allowed by base entitlements $Non-residential\ Gross\ Floor\ Area \times \left(\frac{Proposed\ Development\ FAR - Allowed\ Base\ FAR}{Proposed\ Development\ FAR} \right)$	Number of units multiplied by the proportion of gross floor area that exceeds the maximum gross floor area allowed by base entitlements $Proposed\ Units \times \left(\frac{Proposed\ Development\ FAR - Allowed\ Base\ FAR}{Proposed\ Development\ FAR} \right)$
Additional Height (Stories/Feet) (See Figure (4))	Non-residential gross floor area ⁴ multiplied by the proportion of Comprehensive Floor Area (CFA) ⁵ that exists above the height allowed by base entitlements $Non-residential\ Gross\ Floor\ Area \times \left(\frac{Comprehensive\ Floor\ Area\ of\ any\ space\ above\ the\ base\ height\ limit}{Comprehensive\ Floor\ Area} \right)$	Number of units multiplied by the proportion of Comprehensive Floor Area (CFA) ⁵ that exists above the height allowed by base entitlements $Proposed\ Units \times \left(\frac{Comprehensive\ Floor\ Area\ of\ any\ space\ above\ the\ base\ height\ limit}{Comprehensive\ Floor\ Area} \right)$
1. Where multiple bonuses are applicable, the maximum calculated bonus area/bonus units apply.		
2. An applicant may pay a fee-in-lieu of providing on-site affordable units in compliance with Subsection 23-3E-1050(C) (Housing Fee-In-Lieu) and Section 23-3E-1060 (Non-Residential and Mixed Use Bonus Fee).		
3. Bonus unit calculations round up to the nearest whole number of units.		
4. Non-residential gross floor area includes the total gross floor area occupied by non-residential uses.		
5. CFA includes the total enclosed area of all floors in a building with a clear height of more than six feet, measured to the outside surface of the exterior walls and deducting atria airspace. Includes underground facilities, loading docks, parking facilities, and enclosed communication paths.		

Additional Units in Main Building (Max. Units)

Bonus Units

24 proposed units – 12 base units = 12 bonus units



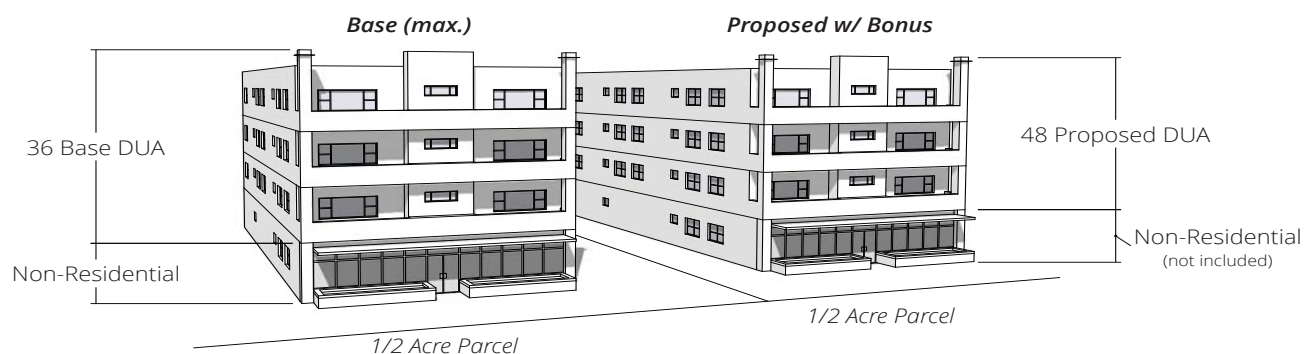
Note: Only one possible scenario shown as an example how to calculate bonus units. Images do not illustrate other applicable development standards.

Figure 23-3E-1040(1) Calculating Bonus for Additional Units in Main Building

Additional Dwelling Units per Acre (DUA)

Bonus Units

$$24 \text{ proposed units} \times \left(\frac{48 \text{ proposed DUA} - 36 \text{ base DUA}}{48 \text{ proposed DUA}} \right) = 6 \text{ bonus units}$$



Note: Only one possible scenario shown as an example how to calculate bonus units. Images do not illustrate other applicable development standards.

Figure 23-3E-1040(2) Calculating Bonus for Dwelling Units per Acre Bonus

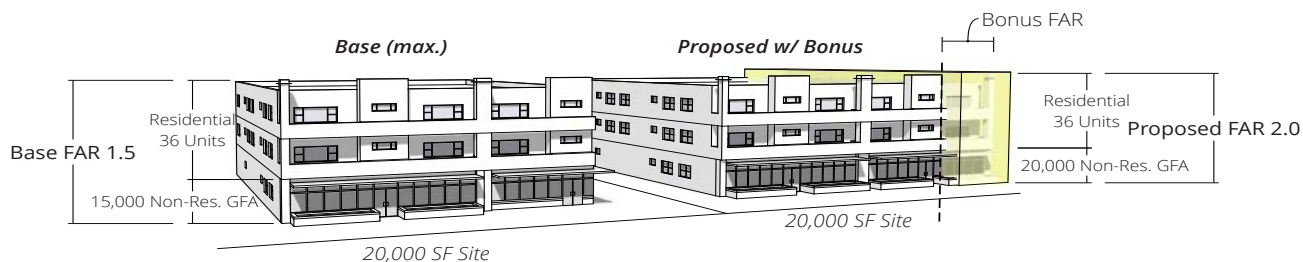
Additional Floor Area Ratio (FAR)

Bonus Units

$$36 \text{ proposed units} \times \left(\frac{2.0 \text{ proposed FAR} - 1.5 \text{ base FAR}}{2.0 \text{ proposed FAR}} \right) = 9 \text{ bonus units}$$

Non-Residential Bonus Square Feet

$$20,000 \text{ sf proposed non-residential GFA} \times \left(\frac{2.0 \text{ proposed FAR} - 1.5 \text{ base FAR}}{2.0 \text{ proposed FAR}} \right) = 5,000 \text{ bonus sf}$$



Note: Only one possible scenario shown as an example how to calculate bonus square feet or bonus units. Images do not illustrate other applicable development standards.

Figure 23-3E-1040(3) Calculating Bonus For Floor Area Ratio Bonus

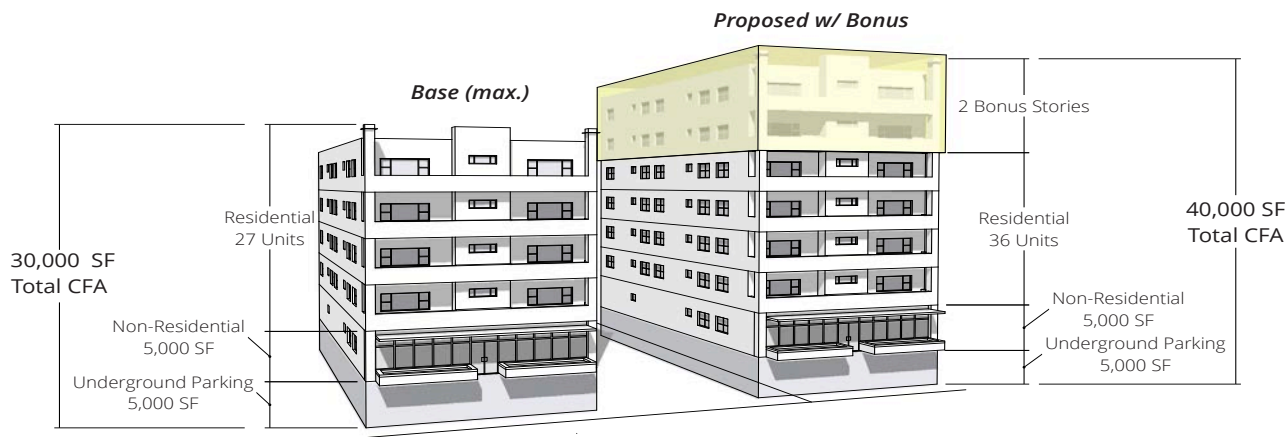
Additional Height (Stories/Feet)

Bonus Units

$$36 \text{ proposed units} \times \left(\frac{40,000 \text{ sf proposed CFA} - 30,000 \text{ sf base CFA}}{40,000 \text{ sf proposed CFA}} \right) = 9 \text{ bonus units}$$

Non-Residential Bonus Square Feet

$$5,000 \text{ sf proposed non-residential GFA} \times \left(\frac{40,000 \text{ sf proposed CFA} - 30,000 \text{ sf base CFA}}{40,000 \text{ sf proposed CFA}} \right) = 1,250 \text{ bonus sf}$$



Note: Only one possible scenario shown as an example how to calculate bonus square feet or bonus units. Images do not illustrate other applicable development standards.

Figure 23-3E-1040(4): Calculating Bonus for Height Bonus

(B) **Affordable Unit Set Aside for Residential Developments.** The number of units set aside as affordable is determined in compliance with Table (B) (Affordable Unit Set Aside Requirements in For-Sale Properties), Table (C) (Affordable Unit Set Aside Requirements in For-Sale Properties in "-A" Zones), and Table (D) (Affordable Unit Set Aside Requirements in For-Rent Properties), and Table (E) (Affordable Unit Set Aside Requirements in For-Rent Properties in "-A" Zones).

- (1) **Application.** The affordability requirements described in Tables (B) through (E) are applied by the director based on geography to ensure the requirements reflect sub-market variations and zone-specific bonus options.
- (2) **Calculation.** The number of affordable units are determined by using Table (A) (Bonus Calculation). The number of affordable residential units (set aside) is calculated as follows:

Bonus Units x Unit Set Aside % = Number of Affordable Units (round up to the nearest whole number of units).

Table 23-3E-1040(B): Affordable Unit Set Aside Requirements in For-Sale Properties

Ownership Units		
Income (MFI)	Households at or below 80% of Median Family Income	
Affordability Period (Years)	99 Years	
Sub-Area Requirements	Areas	Units Set Aside ^{1,2}
	T	5%
	U	10%
	V	15%
	W	20%
	X	30%
	Y	40%
	Z	50%

See "Proposed General Administrative Procedures for Affordable Housing Bonus and Downtown Density Bonus Programs" companion document for the most up-to-date set-aside numbers.

1. For a dwelling unit to qualify as "affordable" a unit must comply with Subsection 23-3E-1090(A).
2. All unit set aside calculations resulting in fractional units must be rounded up to the next whole number.

Table 23-3E-1040(C): Affordable Unit Set Aside Requirements in For-Sale Properties in "-A" Zones

Ownership Units		
Income (MFI)	Households at or below 80% of Median Family Income	
Affordability Period (Years)	99 Years	
Sub-Area Requirements	Areas	Units Set Aside ^{1,2}
	TA	5%
	UA	10%
	VA	15%
	WA	20%
	XA	30%
	YA	40%
	ZA	50%

See "Proposed General Administrative Procedures for Affordable Housing Bonus and Downtown Density Bonus Programs" companion document for the most up-to-date set-aside numbers.

1. For a dwelling unit to qualify as "affordable" a unit must comply with 23-3E-1090(A).
2. All unit set aside calculations resulting in fractional units must be rounded up to the next whole number.

Table 23-3E-1040(D): Affordable Unit Set Aside Requirements in For-Rent Properties

Rental Units		
Income (MFI)	Households at or below 60% of Median Family Income	
Affordability Period (Years)	40 Years	
Sub-Area Requirements	Areas	Units Set Aside ^{1,2}
	A	5%
	B	10%
	C	15%
	D	20%
	E	30%
	F	40%
	G	50%

See "Proposed General Administrative Procedures for Affordable Housing Bonus and Downtown Density Bonus Programs" companion document for the most up-to-date set-aside numbers.

1. For a dwelling unit to qualify as "affordable" a unit must comply with 23-3E-1090(B).
2. All unit set aside calculations resulting in fractional units must be rounded up to the next whole number.

Table 23-3E-1040(E): Affordable Unit Set Aside Requirements in For-Rent Properties in "-A" Zones

Rental Units		
Income (MFI)	Households at or below 60% of Median Family Income	
Affordability Period (Years)	40 Years	
Sub-Area Requirements	Areas	Units Set Aside ^{1,2}
	AA	2%
	BA	4%
	CA	6%
	DA	8%
	EA	10%
	FA	12%
	GA	14%

See "Proposed General Administrative Procedures for Affordable Housing Bonus and Downtown Density Bonus Programs" companion document for the most up-to-date set-aside numbers.

1. For a dwelling unit to qualify as "affordable" a unit must comply with 23-3E-1090(B).
2. All unit set aside calculations resulting in fractional units must be rounded up to the next whole number.

(C) Affordability Periods

- (1) **Rental Units.** An applicant shall agree to continued affordability of all affordable rental units for 40 years. The affordability period for rental projects begins on the issuance of the last final certificate of occupancy for the development.
- (2) **Ownership Units.** An applicant shall agree to continued affordability of all affordable ownership units for 99 years. The affordability period for ownership units begins on the date of sale for each affordable ownership unit to an eligible buyer.

(D) Occupancy Conversion

- (1) If a project that received a density bonus under this article then converts from ownership units to rental units, or rental units to ownership units, the applicant must follow the affordability period for the new occupancy, and shall receive credit for the period of affordability before tenure conversion. For example, if a rental project is converted to ownership after 10 years, the ownership units must remain affordable for a period of 89 years.

$$99 \text{ years (ownership tenure)} - 10 \text{ years (period of tenure before conversion)} = 89 \text{ years}$$

- (2) If a conversion project is approved, the applicant must comply with the applicable set aside requirements, as provided by the property's restrictive covenant.

23-3E-1050 Alternatives to On-site Production of Bonus Units for Residential Developments

- (A) **Purpose.** This section describes potential alternatives to on-site production of affordable units in developments with residential units.
- (B) **Review Authority.** Any request to meet the AHBP requirements through an alternative other than production of on-site affordable units under this section requires review by the designated review group in compliance with Subsection 23-3E-1080(B) (Affordable Housing Bonus Review).
- (C) **Housing Fee-in-lieu.** An applicant may pay a fee-in-lieu of providing the affordable units in compliance with the following:
 - (1) The total fee-in-lieu of affordable units required for a development is determined by multiplying the bonus units by the corresponding residential housing fee-in-lieu per unit as published in the City's fee schedule at the time the project's site plan is submitted.

$$\text{Residential Bonus Units} \times \text{Residential Housing Fee-in-Lieu per Unit} = \text{Total Fee}$$
 - (2) The bonus units must be calculated in compliance with Table(A) (Bonus Calculation).
- (D) **Off-site Production.** Off-site production of affordable units may be proposed if the off-site production of affordable units produces more affordable units or a greater community benefit, as determined by the director. Off-site affordable units:
 - (1) Must be deed-restricted to achieve at least the same affordability period and income restrictions as the project accessing the Affordable Housing Bonus and may include any combination of new units or units in an existing structure;
 - (2) Must include at least the same number of units and same bedroom count mix as would be required in the bonus, except that the provision of dedicated two or three bedroom affordable units may count as two or three one-bedroom/efficiency market-rate units at the discretion of the director;
 - (3) Must be within one mile of the property seeking the bonus or in a location approved by the director, such as a high opportunity area;
 - (4) Must include the payment of a fee equal to the total fee-in-lieu amount due for the development accessing the AHBP, which shall be held in escrow until a final certificate of occupancy is issued for the off-site units; and

- (5) Must receive certificate of occupancy for the off-site units within 36 months of the date that the final certificate of occupancy is issued for the property seeking the bonus.
- (E) **Land Dedications.** Land dedication may be proposed as an alternative to on-site production of affordable units. The applicant may donate to the City land that is within one mile of the property seeking the bonus, within a high opportunity area, or that the director determines is suitable for the construction of affordable units and is of equivalent or greater value than is produced by applying the housing fee-in-lieu. Any dedicated land must be within the full purpose jurisdiction of the City of Austin.

23-3E-1060 Non-Residential and Mixed-Use Bonus Fee

- (A) For non-residential developments seeking a development bonus, the bonus is provided as height, stories, or floor area ratio, using the following formula:

(Base Feet/Stories/FAR) + (Bonus Feet/Stories/FAR) = Total Feet/Stories/FAR (See Article 23- 4D (Specific to Zones) for the applicable bonus)

Square footage is calculated using the formulas for **Non-Residential** Bonus Square Feet in Table (A) (Bonus Calculation).

- (B) To determine the total fee, the bonus square footage of the non-residential development is multiplied by the non-residential housing fee-in-lieu (dollar amount per square foot as published in the City's fee schedule at the time the project's site plan is submitted), using the following formula:

Non-Residential Bonus Square Feet x Non-Residential Housing Fee-In-Lieu per Square Foot = Total Fee

- (C) For mixed-use developments, the total fee is the combined total fee for the non-residential component (see Subsection (A) and (B)) and the fee for the residential component (see Subsection 23-3E-1050(C)):

(Non-Residential Bonus Square Feet x Non-Residential Housing Fee-In-Lieu per Square Foot) + (Residential Bonus Units x Residential Housing Fee-in-Lieu per Unit) = Total Fee

23-3E-1070 Fee Adjustment and Update

The director shall evaluate and, if necessary, may provide recommendations annually to the city council to adjust the housing fee-in-lieu, non-residential bonus fee, or required set aside of affordable units. A designated review group may provide recommendations to the director on adjustments to the fee-in-lieu rate.

23-3E-1080 Application Procedures

- (A) **Application Requirements.** The applicant must submit an Affordable Housing Bonus application to the director in compliance with Division 23-2B-1 (Application Requirements).
- (B) **Affordable Housing Bonus Review.** Any applications requesting to meet the bonus affordability requirements through a fee-in-lieu, provision of affordable units off-site, or land dedication in compliance with Section 23-3E-1050 (Alternatives to On-Site Production of Bonus Units for Residential Development) must be reviewed by a designated review group, before the director approves the application.
- (C) **Housing Director's Approval.** Following the submittal and approval of an application in compliance with this division, the director shall issue an affordability certification letter to the applicant.
- (D) **Applicant's Obligation.** Before the building official may issue a certificate of occupancy under Section 23-2H-4020 (Certificate of Occupancy), the applicant must fulfill all obligations including but not limited to the payment of all fees and execution of land use restrictions to ensure that the applicant meets all applicable AHBP requirements.

23-3E-1090 Land Use Restrictions

- (A) **Affordable Ownership Units**
 - (1) The landowner must enter into a restrictive covenant regarding Affordable Housing Requirements, as amended at the time of the receipt of the affordability certification letter, unless the landowner is required to comply with Subsection (C). The restrictive covenant must include, but is not limited to, the following:
 - (a) The affordability period;
 - (b) The agreement that the unit must be sold to an income eligible household at or below 80 percent of the Median Family Income (MFI) HOME Limits, as amended per household size, and as defined by the U.S. Department of Housing and Urban Development for the Austin-Round Rock Metropolitan Statistical Area. The income determination is conducted by the director;
 - (c) The agreement that the maximum sales price for affordable ownership units must not exceed three times the annual income for a household at 80 percent of the MFI for the Austin-Round Rock Metropolitan Statistical Area as updated by the U.S. Department of Housing and Urban Development, adjusted for unit size where one bedroom equals one person. The maximum sales price can be up to 3.5 times the annual income for a household at 80 percent MFI if a household member has completed a City-approved home buyer counseling or education class; and
 - (d) The set aside requirements for rental units applicable in the event of occupancy conversion approved under Section 23-3E-1040(D) (Occupancy Conversion).
 - (2) The landowner must include director-approved language regarding the affordable units in the condominium declaration or homeowners association document.
 - (3) At the time of the sale of an affordable ownership unit, the buyer must enter into a resale restriction agreement and a covenant limitation on resale price and buyer income, as amended.

- (4) Other agreements may be entered into, if needed, to sell an affordable ownership unit to an eligible buyer.

(B) Affordable Rental Units

- (1) The landowner must enter into a restrictive covenant before the release of the final building permit, unless the landowner has to comply with Subsection (C). The restrictive covenant must include, but is not limited to the following:
 - (a) The affordability period;
 - (b) The units must be rented to income eligible households at or below 60 percent of the Median Family Income (MFI) HOME Limits, as amended per household size, and as defined by the U.S. Department of Housing and Urban Development for the Austin-Round Rock Metropolitan Statistical Area;
 - (c) The maximum monthly rental rate for an affordable rental unit must not exceed 30 percent of the average gross monthly income for a household at 60 percent of the MFI, adjusted for unit size where one bedroom equals one person; and
 - (d) The set aside requirements for ownership units applicable in the event of occupancy conversion approved under Section 23-3E-1040(D) (Occupancy Conversion).
- (C) **Secure the Affordability Restrictions.** Other agreements may be entered into as approved by the director, to secure the affordability restrictions of the project.
- (D) **Restrictive Covenant for Zone Change.** If the applicant is requesting a zone change that is required for the delivery of affordable units, the landowner must execute a restrictive covenant or other form of land use restriction approved by the director concurrent with approval of the zone change by the city council.

23-3E-1100 Reporting, Compliance, and Enforcement

- (A) The director shall establish processes, compliance, and monitoring criteria for implementing the affordability requirements of this division. Training of property owners or property managers before the initial lease up and during the affordability period may be required.
- (B) For rental units, affordability compliance and monitoring requirements must include the submission of director-approved initial occupancy affordability compliance documentation within 30 days of the issuance of the final certificate of occupancy for the last building with a residential use in the development, and monthly thereafter until the property owner has demonstrated compliance with the development's affordability requirements. The director shall perform monitoring of affordability requirements for the duration of the required affordability period for rental units.
- (C) For ownership units, affordability compliance and monitoring will be conducted with the eligible buyer and the director at the time of sale.
- (D) For developments that have received an affordability certification letter, the developer or property owner shall notify the director when building permits are issued for the development.
- (E) The director shall enforce the requirements of this division consistent with the procedures established under Article 23-2J (Enforcement).

Division 23-3E-2: Downtown Density Bonus Program

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23-3E-2010 Purpose and Applicability

- (A) **Purpose.** The purpose of this division is to establish procedures for participation in the Downtown Density Bonus Program, which is a voluntary, incentive-based density bonus program that provides enhanced development potential for projects that increase the supply of moderate to lower-cost housing consistent with the requirements of this division.
- (B) **Applicability.** This division applies to developments applying for a density bonus within the Downtown Core (DC) and Commercial Center (CC) Zones.
-

23-3E-2020 Review Authority

(A) General Implementation

- (1) Authority and responsibility for implementing this **division** is delegated to the Planning Director, which is referred to in this chapter as “the director.” However, the city manager may from time to time delegate particular functions under this chapter to one or more other City departments, which shall control over the general delegation in this subsection.
- (2) In exercising authority under this **division**, the director may consult with other City departments regarding issues within that department’s area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).

- (B) **Rules and Guidelines.** The director shall adopt and update the Downtown Density Bonus Program guidelines in accordance with City Code Chapter 1-2 (Adoption of Rules), except that the Housing Director shall adopt and update guidelines for the affordability component.

23-3E-2030 Application Review

(A) Affordable Housing Review

- (1) **Initial Application.** To participate in the Downtown Density Bonus Program, a person must submit an application to the director for initial review and processing under Division 23-2B-1 (Application Requirements). The application must include an affordability component, providing detailed information regarding the number and type of affordable units to be provided, in addition to other information required by the director to evaluate whether the proposed development meets all applicable requirements for program participation.
- (2) **Housing Director's Approval.** Following receipt of an application to participate in the Downtown Density Bonus Program, the director shall forward the affordability component to the Housing Director for review and approval. If the affordability component meets the applicable guidelines the Housing Director shall issue an affordability certification letter summarizing the terms of the affordability component and stating that the application meets all applicable requirements.
- (3) **Applicant's Obligation**
 - (a) An applicant must obtain an affordability certification letter under Subsection (A)(2), before the director may approve an application to participate in the Downtown Density Bonus Program or present the application to city council for approval.
 - (b) Before the building official may issue a certificate of occupancy under Section 23-2H-4020 (Certificate of Occupancy) for a project participating in the Downtown Density Bonus Program, the applicant must fulfill all obligations including payment of fees and execution of land use restrictions to ensure that the applicant satisfies the approved affordability component and meets all applicable program requirements.

(B) Downtown Density Bonus Floor Area Ratio or Height Requirements

- (1) Properties in the downtown that are eligible for a density bonus under this division are shown on Figure (1) (Downtown Density Bonus Program Map).
- (2) The amount of additional floor area ratio or height achieved by a Downtown Density Bonus for a site is limited by the maximum height or floor area ratio identified on Figure (1) (Downtown Density Bonus Program Map).
- (3) The maximum heights and maximum floor area ratios on Figure (1) (Downtown Density Bonus Program Map) do not modify a site's primary entitlement. If the maximum height or maximum floor area ratio allowed under a primary entitlement exceeds the height or floor area ratio in Figure (1), the bonus area is calculated by using the site's primary entitlement that does not exceed the maximums shown on Figure (1).
- (4) An applicant may request a floor area ratio that exceeds the maximum floor area ratio in Figure (1) (Downtown Density Bonus Program Map) if:
 - (a) The applicant has already achieved the maximum floor area ratio in Figure (1) (Downtown Density Bonus Program Map) by participating in the Downtown Density Bonus Program;
 - (b) The applicant submits a written request and rationale for the additional floor area ratio to the director;

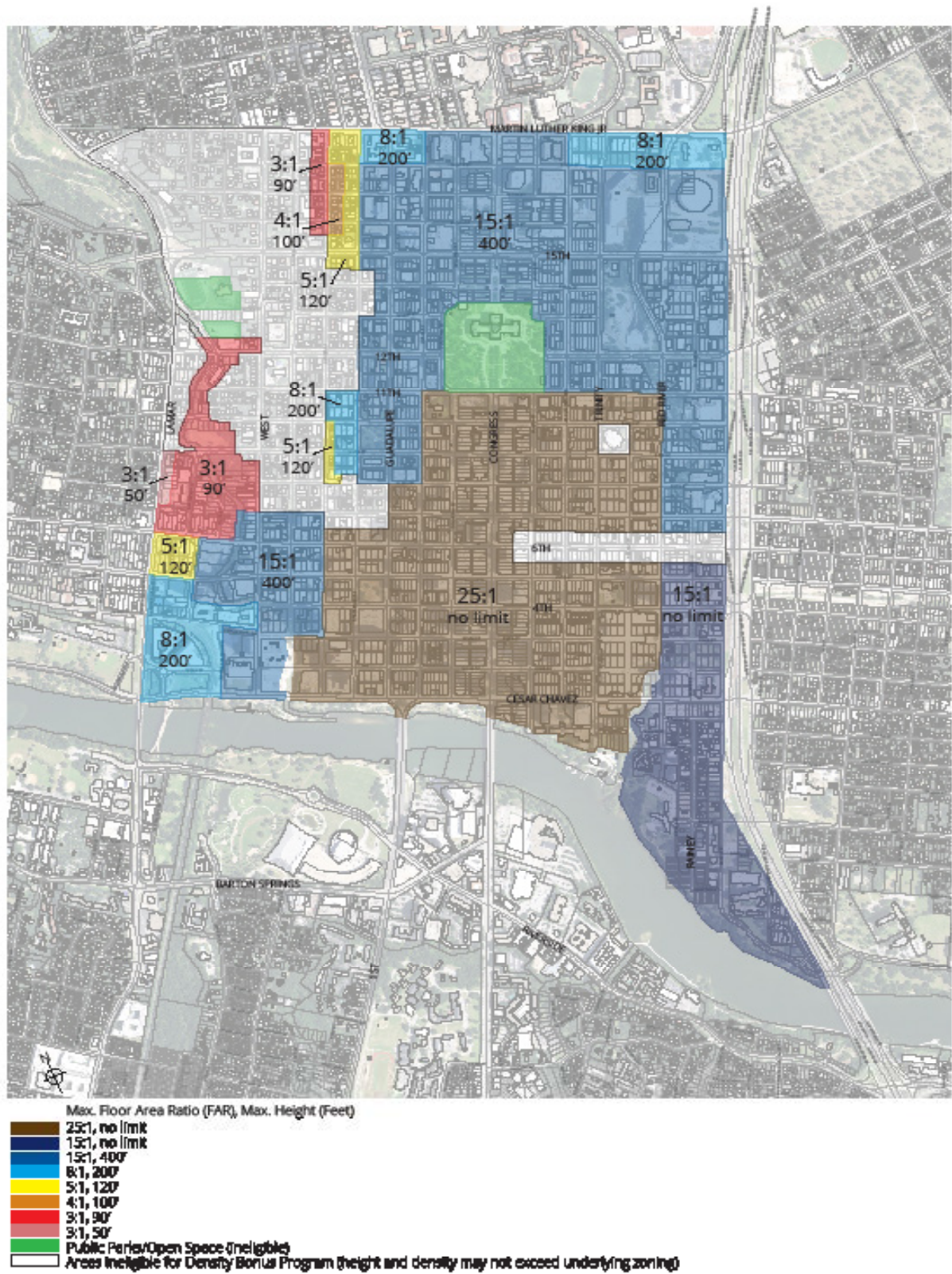


Figure 23-3E-2020(1) Downtown Density Bonus Program Map

Downtown Density Bonus Gatekeeper Requirements

- (c) The director makes a written recommendation on the application and then submits the recommendation to the Planning Commission for its review and recommendation; and
- (d) The council determines that:
 - (i) The development includes additional community benefits described in Section 23-3E-2060 (Community Benefits), exceeding those offered to achieve the floor area ratio in Figure (1) (Downtown Density Bonus Program Map);
 - (ii) The same methodology and bonus area is granted for each community benefit as described in the Downtown Density Bonus Program to achieve the desired bonus area;
 - (iii) The council determines that approving the additional floor area ratio substantially furthers the goals and objectives of the Downtown Austin Plan and the Austin Comprehensive Plan; and
 - (iv) Residential parking is offered separately from the dwelling unit.
- (5) Properties in the Rainey Street Subdistrict must comply with Subsection 23-3E-2070.
- (6) The fee-in-lieu [described in Section 23-3E-2060\(D\)\(3\) \(Housing Fee for Affordable Housing\)](#) may vary by use and downtown district. The applicable fee-in-lieu within each of the nine districts is established by the City's fee schedule.

23-3E-2040 Downtown Density Bonus Gatekeeper Requirements

- (A) To issue a density bonus under the Downtown Density Bonus Program, the director must determine that the proposed development meets the following requirements:
 - (1) The applicant shall submit a schematic level site plan, building elevations, and other drawings, simulations or other documents necessary to fully describe the urban design character of the development and relationship of the development to its surroundings to the director.
 - (a) The application shall include a vicinity plan locating the project in context and showing a minimum 9 block area around the project, the location and nature of nearby transit facilities, and a landscape plan.
 - (b) The site plan and landscape plan shall be certified in compliance with the City's *Great Streets Standards*.
 - (2) The Design Commission shall evaluate and make recommendations regarding whether the development is in substantial compliance with the City's *Urban Design Guidelines* and the director shall consider comments and recommendations of the Design Commission.
 - (3) The applicant shall execute a restrictive covenant committing to provide streetscape improvements along all public street frontages, consistent with the City's *Great Streets Standards*.

- (4) The applicant shall execute a restrictive covenant committing to achieve a minimum two star rating under the Austin Energy Green Building program using the ratings in effect at the time the development is registered with the Austin Energy Green Building Program. The applicant shall also provide the director with a copy of the development's signed Austin Energy Green Building Letter of Intent before the director may approve a density bonus for a site.
- (5) After the director determines the applicant meets the gatekeeper requirements, the applicant shall provide sufficient written information so that the director can determine:
 - (a) The site's primary entitlement;
 - (b) The amount of bonus area that the applicant is requesting;
 - (c) The total dollar amount the applicant will pay if the applicant chooses to obtain the entire bonus area exclusively by paying a fee in-lieu, and the amount of the fee to be dedicated to each community benefit; and
 - (d) The community benefits the applicant proposes to provide to obtain bonus area if the bonus area will not be obtained exclusively by paying a fee in-lieu.

23-3E-2050 Changes in Design of Proposed Building

If the design of a building changes after a density bonus is approved under this **division**, the director shall review the new design for compliance with this section before the building permit is approved. A building permit for a final design will not be approved until the design complies with this section and the restrictive covenants are amended to reflect new or revised community benefits.

23-3E-2060 Community Benefits

- (A) **Community Benefit.** An applicant may achieve a density bonus by providing community benefits outlined in this section.
- (B) **Administrative Approval.** If the applicant chooses to achieve 100 percent of the density bonus by providing community benefits described in Subsection (C) through (E), the director may approve the density bonus administratively.
- (C) **Affordable Housing Community Benefit Percentages**
 - (1) A development must achieve at least 50 percent of the desired density bonus by compliance with Subsection (D).
 - (2) For any portion of the desired density bonus not achieved by providing affordable housing, the applicant must achieve the density bonus by providing one or more of the community benefits provided in Subsections (F) and (G).
 - (3) **The applicant is required to execute an agreement, restrictive covenant, or other binding restriction on land use in compliance with this division.**

- (D) **Affordable Housing Community Benefit.** An applicant may use one or more of the following:
- (1) **On-site Affordable Housing.** A development may achieve a density bonus by providing on-site affordable housing within the development. The amount of density bonus that may be achieved for each square foot of dwelling unit devoted to on-site affordable housing is established by the Affordable Housing Criteria Manual. Affordable requirements are identified in Subsection (E).
 - (2) **Family-friendly Housing.** A development providing on-site affordable housing may achieve additional density bonus by providing one or more family-friendly eligible bedrooms. The amount of density bonus that may be achieved for each family-friendly eligible bedroom is established by the Affordable Housing Criteria Manual.
 - (3) **Housing Fee for Affordable Housing**
 - (a) The development may achieve a density **bonus** by paying a fee established in the City's fee schedule. The fee will be paid into the Affordable Housing Trust Fund.
 - (b) The funds generated by the fee are exclusively for permanent supportive housing for low barrier approaches for the chronically homeless.
- (E) **Affordability Requirements.** For purpose of this section, a unit is affordable if it meets the requirements of Subsections (E)(1) and (E)(2).
- (1) **Affordability Requirements for Owner-occupied Units**
 - (a) On-site for sale affordable housing units must be reserved, sold and transferred to an income eligible buyer subject to a resale restricted, shared equity agreement approved by the Housing Director, for not less than 99 years from the date the unit is sold to an eligible buyer.
 - (b) The units must be made available for ownership and occupancy by households at or below 120 percent of the Median Family Income (MFI) HOME Limits, as amended per household size, and as defined by the U.S. Department of Housing and Urban Development for the Austin-Round Rock Metropolitan Statistical Area. The Housing Director conducts the income determination.
 - (c) A unit is affordable for purchase if the maximum sales price for the unit does not exceed three times the annual income for a household at 120 percent of the MFI for the Austin-Round Rock Metropolitan Statistical Area as updated by the U.S. Department of Housing and Urban Development, adjusted for unit size where one bedroom equals one person. The maximum sales price can be up to 3.5 times the annual income for a household at 120 percent MFI if a household member has completed a City-approved homebuyer counseling or education class.
 - (2) **Affordability Requirements for Rental Units**
 - (a) On-site rental affordable housing units must be reserved as affordable for a minimum of 40 years following the issuance of the certificate of occupancy.
 - (b) The units must be made available for rental by households at or below 80 percent of the MFI HOME Limits, as amended per household size, and as defined by the U.S. Department of Housing and Urban Development for the Austin-Round Rock Metropolitan Statistical Area. The Housing Director conducts the income determination.

- (c) A unit is affordable for rent if the maximum monthly rent for the unit does not exceed 30 percent of the average gross monthly income for a household at 80 percent of the MFI for the Austin-Round Rock Metropolitan Statistical Area as updated by the U.S. Department of Housing and Urban Development, adjusted for unit size where one bedroom equals one person.
- (d) An applicant may not deny a prospective tenant affordable rental housing based only on the prospective tenant's participation in the Housing Choice Voucher Program or in any other housing voucher program that provides rental assistance.

(F) Additional Community Benefit Options

(1) Rainey Street Subdistrict Historic Preservation Community Benefit

- (a) A development may achieve density bonus for each historically significant building that is rehabilitated and:
 - (i) Preserved on site;
 - (ii) Relocated to a site within the Rainey Street Subdistrict; or
 - (iii) Relocated to a location within the city limits as determined appropriate by the Historic Landmark Commission.
- (b) The amount of bonus area that may be achieved for on-site improvements for Rainey Street Subdistrict historic preservation is established by the Affordable Housing Criteria Manual.
- (c) Buildings eligible for this community benefit include those buildings within the Rainey Street National Historic Register District that the City's historic preservation officer has determined contribute to the historic character of the Rainey Street National Historic Register District.
- (d) A development using this community benefit option must maintain the architectural integrity of the building as determined by the Historic Landmark Commission whether or not the building is zoned Historic Landmark (H) or Historic District (HD) Overlay.
- (e) The Historic Landmark Commission must review and approve modifications to a building before the City may grant a density bonus.
- (f) A development can use this option only if a substantial percentage of the external walls and internal structure remain intact at project completion.
- (g) An applicant must provide a description of the rehabilitation that describes the existing conditions of the building and the proposed work. The applicant must submit photographs showing the major character defining features of the building before the start of work.
- (h) Before the building official issues any type of certificate of occupancy, an applicant must submit documentation verifying that the work has been completed as proposed. The documentation must be submitted in a format similar to the Description of Rehabilitation portion of the United States Department of the Interior National Park Service Historic Preservation Certification Application.
- (i) An applicant who cannot finish restoration as proposed must pay into a dedicated fund the applicable fee-in-lieu for the density bonus initially granted for this community benefit. The applicant's payment is based on the fee-in-lieu in effect in the City's fee schedule when the applicant pays.

- (2) **Day Care Services Community Benefit.** A development can achieve density bonus by providing on-site day care services within the development. The amount of density bonus that can be achieved for each square foot of day care services that are provided is established by the Affordable Housing Criteria Manual.

 - (a) The applicant must execute a restrictive covenant that requires compliance with all relevant requirements of this section and that ensures continuation of operations and maintenance of the facility with the provided community benefit use for a period of at least 10 years, which is the life of the agreement.
 - (b) The City shall approve of the operator and the lease terms, which must be for no less than 10 years.
 - (c) The facility must comply with applicable state and local codes.
 - (d) The facility must be open during normal business hours at least five days each week and 50 weeks each calendar year.
 - (e) The facility must be maintained and kept in a good state of repair throughout the life of the agreement.
 - (f) If the day care services use is non-operational for more than 180 days in any 365 day period, the applicant must pay into the Affordable Housing Trust Fund the applicable fee-in-lieu for the density bonus initially granted for this community benefit. The payment will be a pro-rated amount based on the time left in the term of the agreement and based on the fee-in-lieu in effect in the City's fee schedule when the applicant pays.
- (3) **Cultural Uses Community Benefit.** A development can achieve density bonus by providing on-site cultural uses within the development. The amount of density bonus that may be achieved for each square foot of cultural uses provided is established by the Affordable Housing Criteria Manual.

 - (a) The applicant must execute a restrictive covenant that requires compliance with all requirements of this section and that ensures continuation of operations and maintenance of the facility with the specified community benefit use for a period of at least 10 years, which is the life of the agreement.
 - (b) The Director shall approve the operator and the lease terms, which must be for no fewer than 10 years.
 - (c) Use must meet the definition of cultural uses.
 - (d) If the required use is non-operational for more than 180 days in any 365 day period, the applicant must pay into the Affordable Housing Trust Fund the applicable fee-in-lieu for the density bonus initially granted for this community benefit. The payment will be a pro-rated amount based on the time left in the term of the agreement and based on the fee-in-lieu in effect in the City's fee schedule when the applicant pays.
- (4) **Live Music Community Benefit.** A development can achieve density bonus by providing an on-site live music use. The amount of density bonus that may be achieved for each square foot of live music use is established by the Affordable Housing Criteria Manual.

 - (a) The applicant must ensure continuation of operations and maintenance of the facility with the provided community benefit use for a period of at least 10 years, which is the life of the agreement.

- (b) The director shall approve the operator and the lease terms, which must be for no fewer than 10 years.
 - (c) The operator of the facility must maintain proper permitting and documentation to play amplified music in the space.
 - (d) If the required use is non-operational for more than 180 days in any 365 day period, the applicant must pay into the Affordable Housing Trust Fund the applicable fee-in-lieu for the density bonus initially granted for this community benefit. The payment will be a pro-rated amount based on the time left in the term of the agreement and based on the fee-in-lieu in effect in the City's fee schedule when the applicant pays.
- (5) **On-Site Improvements for Historic Preservation Community Benefit.** A development can achieve a density bonus by providing on-site improvements for historic preservation. The amount of density bonus that may be achieved for on-site improvements for historic preservation is established by the Affordable Housing Criteria Manual.
- (a) Buildings eligible for on-site improvements for historic preservation community benefit include:
 - (i) Buildings designated as City landmarks, recorded Texas Historic Landmarks, State Antiquities Landmarks, or listed on the National Register of Historic Places;
 - (ii) Contributing properties within National Register or Local Historic Districts;
 - (iii) Buildings determined by the historic preservation officer to be historically significant; or
 - (iv) Buildings determined eligible for listing on the National Register of Historic Places by the State historic preservation officer.
 - (b) Requirements for the community benefit include:
 - (i) Development using this community benefit option for on-site improvements must maintain the architectural integrity of the building, as determined by the Historic Landmark Commission whether or not the building is zoned as a Historic Landmark (H) or Historic District (HD) Overlay Zone.
 - (ii) The Historic Landmark Commission shall review and approve modifications to a building before the director may grant a density bonus.
 - (iii) A development may be granted a density bonus for on-site improvements for historic preservation only when a substantial percentage of the external walls and internal structure remain intact at development completion.
 - (iv) Applicant must provide a description of rehabilitation that describes the existing condition of the building and the proposed work. The applicant must submit photographs showing the major character-defining features of the building before starting work.
 - (v) Before the building official issues any type of certificate of occupancy, an applicant must submit documents verifying that the work has been completed as proposed. The documents must be submitted in a format similar to the description of rehabilitation portion of the United States Department of the Interior National Park Service Historic Preservation Certification application.

- (vi) If restoration cannot be completed as proposed, the applicant must pay into a dedicated fund the applicable fee-in-lieu for the density bonus initially granted for this community benefit. The applicant's payment will be based on the fee-in-lieu in effect in the City's fee schedule at the time the applicant pays the fee.
- (6) **Fee In-Lieu for Off-Site Historic Preservation Community Benefit.** The development may achieve a density bonus by paying a fee-in-lieu of off-site historic preservation at the dollar per square foot established by the Affordable Housing Criteria Manual. The fee is paid into a dedicated fund.
 - (a) The director will administer the fund.
 - (b) This option cannot be used if an applicant is proposing to demolish all or a substantial percentage of a building the historic preservation officer considers historically significant.
- (7) **Green Building Community Benefit.** An applicant may achieve a density bonus by constructing a development to green building standards that exceed the gatekeeper requirements. The amount of density bonus that may be achieved for constructing a development to green building standards is established by the Affordable Housing Criteria Manual and must meet the following requirements:
 - (a) The applicant shall execute a restrictive covenant committing to achieve a specified rating under the Austin Energy Green Building (AEGB) program using the ratings in effect at the time the ratings application is submitted for the development or Leadership in Energy & Environmental Design (LEED) program using the most recently launched version of the LEED for New Construction rating at the time of the development's registration.
 - (b) The applicant shall also provide the director with a copy of the development's signed AEGB Letter of Intent for developments seeking AEGB rating or a copy of the complete LEED registration for developments seeking LEED rating before the director may approve the density bonus for a site.
 - (c) An applicant must submit an AEGB or LEED checklist indicating the measures the development intends to meet the applicable green building requirement before the director may approve a density bonus for a site.
 - (d) A development seeking an AEGB rating will be subject to at least one inspection during construction and an inspection at substantial completion. A development seeking LEED certification must submit the LEED design review results and an updated LEED checklist or scorecard indicating the development will be able to obtain LEED certification by substantial completion.
 - (i) If the required AEGB rating or LEED certification is not achieved within nine months from time of occupancy, an applicant must pay into the Affordable Housing Trust Fund the applicable fee-in-lieu for the density bonus initially granted for this community benefit. The applicant's payment will be based on the fee-in-lieu in effect in the City's fee schedule when the applicant pays.

- (8) **Publicly Accessible On-Site Plaza Community Benefit.** A development **may** achieve a density bonus by providing a publicly accessible on-site plaza. The amount of density bonus that may be achieved by providing a publicly accessible on-site plaza is established by the Affordable Housing Criteria Manual.
- (a) If the required plaza is non-operational for more than 180 days in any 365 day period, the applicant must pay into a **dedicated** fund the applicable fee-in-lieu for the density bonus initially granted for this community benefit. The payment will be based on the fee-in-lieu in effect in the City's fee schedule when the applicant pays.
- (9) **Off-Site Open Space Fee In-lieu Community Benefit.** The development may achieve a density bonus by paying a fee in-lieu of off-site open space at the dollar per square foot established by the Affordable Housing Criteria Manual. The fee will be paid into a **dedicated** fund.
- (a) The director shall administer the fund.
- (b) The fee in-lieu option is only available for open space beyond what is already required by this Title.
- (c) The applicant must deposit a nonrefundable cash payment with the City.
- (10) **Green Roof Community Benefit.** A development may achieve a density bonus by providing green roofs. The amount of the density bonus that may be achieved for the construction of green roofs is established by the Affordable Housing Criteria Manual.
- (a) Green Roofs must be built to the Vegetated ("Green") Roof Performance Standards in Appendix W of the Environmental Criteria Manual. The percent of vegetated roof cover is calculated as a portion of total roof area excluding mechanical equipment, photovoltaic panels, swimming pools, and skylights.
- (b) If the green roof fails to meet the Vegetated ("Green") Roof Performance Standards for more than 180 days in any 365 day period, the applicant must pay into the Downtown Open Space Fund the applicable fee-in-lieu for the density bonus initially granted for this community benefit. The payment will be based on the fee-in-lieu in effect in the City's fee schedule when the applicant pays.
- (c) Green roof areas used to achieve a density bonus through the Green Roof Community Benefit may not be used to achieve a density bonus through the publicly accessible on-site plaza community benefit.
- (G) **Other Community Benefits.** An applicant may offer to provide other community benefits not described in this section. The applicant must provide sufficient information about the other community benefits for the director to determine whether the other community benefits serve a public and municipal purpose considering the criteria listed below:
- (1) The director shall consider the following to make a determination:
- (a) If members of the general public will be able to enjoy the proposed other community benefit without paying for its access, use, or enjoyment;
- (b) If the proposed other community benefit will connect to and be accessible from public right-of-way or other publicly-accessible space;
- (c) If the proposed other community benefit will provide a public amenity that is particularly lacking in the proposed location;

- (d) If the proposed other community benefit will not impose a significant burden on public resources for maintenance, management, policing, or other reasons; and
 - (e) Any other information provided by the applicant that shows the other community benefit serves a public and municipal purpose and furthers the City's comprehensive planning goals.
 - (2) If a proposed other community benefit provides a partial benefit to a development, it will not be disqualified; the director will allocate only the cost of the public portion of the benefit to the other community benefits.
 - (3) If the director determines that the proposed benefit qualifies as a community benefit, the director shall:
 - (a) Quantify the monetary cost for the proposed other community benefit by using standard industry sources as well as locally based data on development costs to quantify the monetary cost, without mark-up, for the proposed other community benefit; and
 - (b) Determine the cost to be applied towards achieving the desired density bonus.
 - (4) The amount determined by the director may be applied to achieve a density bonus on the same basis as the fee-in-lieu rate applicable to the type and location of the development.
 - (5) The director's recommendation concerning the proposed other community benefit and the monetary value that is applied to achieve the density bonus shall be presented to the Planning Commission for recommendation and the council for approval.
 - (6) If the applicant proposes to achieve a density bonus by providing other community benefits, the value of the public portion of the proposed other community benefits must be equal to or greater than the total dollar amount the applicant would pay if the payment were based on the applicable fee-in-lieu required to earn that requested bonus area.
- (H) **Community Benefit Calculations for Mixed-Use Developments.** Mixed-use developments must provide community benefits in proportion to the amount of floor area in the development that is devoted to different use categories.

23-3E-2070 Rainey Street Subdistrict Bonus

- (A) The requirements of this section apply to the Rainey Street Subdistrict, as identified in Section 23-4D-9140 (Waterfront Overlay Zone).
 - (1) A request for a bonus for a floor area ratio of up to 8:1 must comply with the requirements of Subsection (B).
 - (2) A request for a bonus exceeding a floor area ratio of 8:1 is subject to the requirements of Subsection (C).

(B) Bonus Floor Area Ratio up to 8:1

- (1) A development in the Rainey Street Subdistrict may exceed the 40 foot height limit Subsection 23-4D-9140(F)(7)(iii) and achieve a floor area ratio of up to 8:1 if at least five percent of the square footage of the dwelling units developed within that floor area ratio of 8:1 is available to house persons whose household income is 80 percent or below the MFI HOME Limits, as amended per household size, and as defined by the U.S. Department of Housing and Urban Development for the Austin-Round Rock Metropolitan Statistical Area. The Housing Director conducts the income determination.
- (2) In meeting the five percent requirement, mixed-use development shall provide on-site affordable housing in proportion to the amount of floor area in the project that is devoted to residential uses.
- (3) The affordability requirements for owner-occupied units must housing units shall be 40 years for rental housing and 99 years for on-site for sale housing. The affordability period begins following the issuance of the certificate of occupancy.
- (4) On-site for sale affordable housing units must be reserved, sold, and transferred to an income eligible buyer subject to a resale restricted, shared equity agreement approved by the Housing Director.
- (5) An applicant may not deny a prospective tenant affordable rental housing based only on the prospective tenant's participation in the Housing Choice Voucher Program or in any other housing voucher program that provides rental assistance.
- (6) The bedroom count mix for the affordable units must be proportional to the overall bedroom count mix within an overall development.
- (7) A unit is affordable for purchase or rental if, in addition to the other requirements of this section, the household is required to spend no more than 30 percent of its gross monthly income on mortgage or rental payments for the unit.

(C) Bonus Floor Area Ratio Exceeding 8:1

- (1) To achieve a bonus area exceeding a floor area ratio of 8:1 in the Rainey Street Subdistrict, the development must:
 - (a) Comply with the requirements of Subsection (B) to achieve a floor area ratio of 8:1; and
 - (b) For the portion of the development that exceeds a floor area ratio of 8:1, comply with the requirements of the Downtown Density Bonus Program in Sections 23-3E-2010 thru 23-3E-2060.
- (2) The maximum height and maximum floor area ratio that a development in the Rainey Street Subdistrict may achieve under the Downtown Density Bonus Program are shown on Figure 23-3E-2020(1) (Downtown Density Bonus Program Map).

23-3E-2080 Reporting, Compliance, and Enforcement

- (A) The requirements of this division are subject to the reporting, monitoring, and compliance requirements of Section 23-3E-1100 (Reporting, Compliance, and Enforcement).
- (B) The Housing Director shall evaluate and, if necessary, may provide recommendations to council to adjust the housing fee-in-lieu and affordable housing community benefits described in Subsection 23-3E-2050(D) annually.

Division 23-3E-3: Tenant Notification and Relocation

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23-3E-3010 Purpose and Applicability

- (A) The purpose of this division is to mitigate, through notification requirements and relocation assistance, the effect of tenant displacement resulting from multi-family redevelopment and the demolition or change in use of multi-family buildings and manufactured home parks. This division does not regulate or affect the landlord-tenant relationship.
- (B) Except where otherwise provided, the requirements of this division do not apply to any dwelling unit:
 - (1) Demolished or vacated because of damage caused by the tenant or by other events beyond the owner’s control, including fire, civil commotion, malicious mischief, vandalism, tenant waste, natural disaster or other destruction;
 - (2) Owned by a public housing agency;
 - (3) Located inside the boundaries of an educational facility that is occupied by students, faculty, or staff of the institution;
 - (4) For which relocation assistance is required to be paid to the tenants under federal or state law; or
 - (5) Operated as emergency or temporary shelter for homeless persons and owned or administered by a nonprofit organization or public agency.

23-3E-3020 Tenant Notification Required

- (A) **Applicability.** The tenant notification requirements of this section apply to an application to:
 - (1) Demolish or partially demolish a multi-family building consisting of five or more occupied residential units, including a demolition permit or a building permit that authorizes demolition;
 - (2) Approve a site plan or a land use approval for an existing manufactured home park consisting of five or more occupied residential units; or

- (3) Rezone a property within the Manufactured Home Park (MHP) Zone designation that contains an existing manufactured home park consisting of five or more occupied residential units.
- (B) **Timing.** An applicant must provide tenant notification either before, or concurrent with, submittal of the application. To demonstrate that the required notification was provided in compliance with this subsection, the applicant must include a certified statement, on a form approved by the Housing Director, confirming that all tenants entitled to a notice under Subsection (C) received notification within the following timeframes:
 - (1) **Multi-family Building.** A minimum of 120 days before the date that an application for a building permit or a demolition permit can be approved; or
 - (2) **Manufactured Home Park.** A minimum of 270 days before the date that an application for a rezone, site plan, or land use approval may be approved.
- (C) **Application Approval.** The application may be approved no earlier than:
 - (a) For a demolition or building permit, 120 days after all tenants of the multi-family building who are entitled to notice under Subsection (D) receive notification required under this section; or
 - (b) For a rezone, site plan, or change of use permit, at least 270 days after all tenants of the mobile home park entitled to notice under Subsection (D) received notification required under this section.
- (D) **Noticing Delivery Procedures.** The notification required by this section must be on a form approved by the Housing Director and comply with the following noticing procedures:
 - (1) Notice must be delivered by the applicant, or the applicant's representative, or by registered or certified mail, with return receipt requested.
 - (2) Notice must be delivered to all units:
 - (a) Proposed for demolition in a multi-family building under a permit application for which notice is required under Subsection (A)(1); or
 - (b) Located in a manufactured home park included in a rezone, land use approval, or site plan application for which notice is required under Subsection (A)(2) through (A)(3); and
 - (3) Notice must include the following information, in English, Spanish, and any other language as required by the Housing Director:
 - (a) The applicant's name and contact information;
 - (b) A description of the development application for which notification is required under Subsection (A);
 - (c) A statement that application may be approved on or after the 120th or 270th day, whichever applies, following receipt of the notice and may result in displacement of tenants;
 - (d) A description of any tenant relocation assistance that may be available under Section 23-3E-3040 (Tenant Relocation Program), including income eligibility requirements and forms of requesting assistance;

- (e) Information regarding applicable school district policies relating to district residency requirements;
 - (f) Information regarding the requirements of state law for return of security deposits;
 - (g) Information regarding the availability of fee waivers from Austin Energy for obtaining utility service at a new residence where relocation is required due to displacement;
 - (h) Other information as may be required by the Housing Director, including contact information for tenant relocation assistance and services to assist displaced tenants; and
- (4) The notice must be on a form provided by the Housing Director, which must be uniform for all applicants except that the director may require an additional language as provided under Subsection (D)(3).
- (E) **Re-notification.** If an applicant requests an extension of a demolition permit for which notification under this section is required, the applicant must provide re-notification to tenants consistent with the requirements for a new application.

23-3E-3030 Additional Notice Requirements

- (A) At the time that notification is provided under Section 23-3E-3020 (Tenant Notification Required), the owner or operator of a multi-family building or manufactured home park must post one or more signs in compliance with this section.
- (B) The sign must be on a form approved by the Housing Director and must be in English, Spanish, and any other language as required by the Housing Director, and must include:
 - (1) A description of the application for which notification is required and state that any new or existing tenants may be required to relocate from the site as a result of proposed demolition or redevelopment;
 - (2) Tenant relocation assistance information and contact number; and
 - (3) To the greatest extent feasible:
 - (a) For a multi-family building, be posted at the front of the leasing office or other primary building entrance as determined by the Housing Director.
 - (b) For a manufactured home park, be posted at the main entrance in a location visible to the public from the adjacent public right-of-way or private drive; or
- (C) A sign, required under this section, must remain on the property until:
 - (1) For a multi-family building, the date that the demolition activity begins; and
 - (2) For a manufactured home park, the earlier of:
 - (a) The date that the property stops being used as a manufactured home park, or
 - (b) If applicable, the date that the site plan approval or land use approval expires.
- (D) If a landowner or a landowner's agent rents a unit to a new tenant following application for a permit requiring notice under Section 23-3E-3020 (Tenant Notification Required), the landowner or landowners agent must provide the tenant with notification that includes the information required under Subsection 23-3E-3020(D) (Noticing Delivery Procedures).

23-3E-3040 Tenant Relocation Program

- (A) The Housing Director shall adopt a tenant relocation program by administrative rule for the purpose of mitigating the effects of tenant displacement resulting from multi-family redevelopment within the City.
- (B) The tenant relocation program must, at a minimum, include each of the following:
 - (1) **Tenant Relocation Fee.** The program must include a methodology to be used by the Housing Director in recommending to the council the amount of the fee required under Section 23-3E-3050 (Tenant Relocation Assistance – Developer Funded). The methodology must include a nexus study that accounts for the effects of displacement to tenant communities directly affected by multi-family redevelopment and to the community as a whole. The fee must be consistently calculated and uniformly applied, but may vary based on number of units, bedrooms, and other objective criteria identified by the nexus study.
 - (2) **Eligibility for Tenant Relocation Assistance.** The program shall establish eligibility requirements that a tenant must meet to receive tenant relocation assistance under Section 23-3E-3050 (Tenant Relocation Assistance – Developer Funded) or Section 23-3E-3060 (Tenant Relocation Assistance – City Funded). At minimum, the eligibility requirements must:
 - (a) Require that a tenant's household income is lesser or equal to 70 percent of median family income or, for residents of a manufactured home park, 80 percent of median family income;
 - (b) Require that a tenant reside at the property on the date that the initial notification required under Section 23-3E-3020 (Tenant Notification Required) is delivered;
 - (c) Require a tenant to submit a claim form documenting income eligibility no later than the deadline established by the Housing Director;
 - (d) Prohibit participation by tenants of multi-family redevelopment exempt from this division under Subsection 23-3E-3010(B), except that the Housing Director may allow use of funds under Section 23-3E-3060 (Tenant Relocation Assistance – City Funded) to provide relocation assistance for tenant displacement resulting from fire, civil commotion, malicious mischief, vandalism, natural disaster, or other destruction beyond the control of the owner or tenant.
 - (3) **Use of Tenant Relocation Assistance.** The program must specify the types of expenses for which tenant relocation assistance may be provided. Eligible expenses paid using funds collected under Section 23-3E-3050 (Tenant Relocation Assistance – Developer Funded) must be reasonably attributable to tenant displacement based on the nexus study required under Subsection (B)(1).
 - (4) **Refund Procedures.** The program shall establish procedures by which an applicant who paid a tenant relocation fee under Section 23-3E-3050 (Tenant Relocation Assistance – Developer Funded) may request a refund of any fees not spent for an authorized purpose within ten years after approval of an application for which notification is required.
- (C) The Housing Director may include additional elements in the tenant relocation program, including but not limited to notification forms and other documents relevant to meeting the requirements of this division.

23-3E-3050 Tenant Relocation Assistance – Developer Funded

- (A) An applicant for a multi-family redevelopment shall pay a tenant relocation fee established by separate ordinance as a condition of approval of:
 - (1) A Planned Unit Development (PUD) Zone, as required under Section 23-4D-8110 (Planned Unit (PUD) Development); or
 - (2) A rezone or other discretionary land use approval that requires approval by the council and is reasonably likely to result in tenant displacement, unless waived by the council.
- (B) The Housing Director shall deposit a fee imposed under this section into the Developer Fund for Tenant Relocation Assistance, which is established under this section. The Housing Director shall use the fund to provide tenant relocation assistance to eligible tenants at the development or site for which the payment was made, consistent with requirements adopted under Section 23-3E-3040 (Tenant Relocation Program).

23-3E-3060 Tenant Relocation Assistance – City Funded

- (A) The City of Austin Tenant Relocation Fund is established for use in providing relocation assistance to tenants displaced by multi-family redevelopment.
- (B) The Housing Director shall administer the fund consistently with guidelines established under Section 23-3E-3040 (Tenant Relocation Program) and may use the fund to provide relocation assistance to any tenant displaced due to:
 - (1) Development activity for which notification is required by this division, whether or not the applicant was required to pay a fee under Section 23-3E-3050 (Tenant Relocation Assistance – Developer Funded);
 - (2) Emergency orders to vacate based on health and safety concerns;
 - (3) Fire, civil commotion, malicious mischief, vandalism, natural disaster, or other destruction beyond the control of the owner or tenant; or
 - (4) Major repairs or renovations of multi-family buildings.

23-3E-3070 Offenses

- (A) Failure to deliver the notification required by this division to one or more units within a multi-family building or manufactured home park, is considered an offense, under Section 23-2J-1020 (General Offenses and Violations). It is a separate offense for each day the applicant fails to deliver required notification to an individual unit within a multi-family building or manufactured home park for which notification is required.
- (B) Each offense is punishable by a fine not to exceed \$500.
- (C) The Housing Director shall enforce the requirements of this division as provided under Article 23-2J (Enforcement).

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Division 23-3E-4: S.M.A.R.T. Housing

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23-3E-4010 Administration

- (A) The Housing Director shall administer the S.M.A.R.T. Housing program and may adopt and implement program guidelines or rules and establish the requirements for an application under the program.
- (B) The Housing Director shall notify the Public Works Director and Transportation Director of proposed S.M.A.R.T. Housing developments within a half mile of an existing or planned transit route or stop.

23-3E-4020 Program Requirements

- (A) S.M.A.R.T. Housing is housing that is safe, mixed-income, accessible, reasonably priced, transit-oriented, and compliant with the City’s green building standards.
- (B) S.M.A.R.T. Housing must:
 - (1) Be safe by providing housing that complies with this Title;
 - (2) Provide mixed-income housing by including dwelling units that are reasonably-priced, as described in Subsection (C);
 - (3) Provide for accessibility for a development of more than three dwelling units by providing at least 10 percent of the dwelling units that comply with the accessibility requirements of the building code;
 - (4) Provide for visitability for a development with three or fewer dwelling units by either:
 - (a) Complying with the design and construction requirements of City Code Chapter 5-1, Article 3, Division 2 (Design and Construction Requirements); or
 - (b) Complying with the local visitability amendment of the international residential code.
 - (5) Be located within one-half mile walking distance of a local public transit route at the time of application, except as provided in Subsection (D); and
 - (6) Achieve at least a one star rating under the Austin Green Building Program.

- (C) A reasonably-priced dwelling unit is one that is affordable for purchase or rental according to the following:
 - (1) If the dwelling unit is offered for purchase, the maximum sales price must not exceed three times the annual income for a household at the MFI level required by [Section 23-3E-4030 \(Affordability Requirements\)](#), adjusted for unit size where one bedroom equals one person. The maximum sales price can be up to 3.5 times the annual income for a household at the required MFI level if a household member has finished a City-approved homebuyer counseling or education class.
 - (2) If the dwelling unit is offered as a rental, the maximum monthly rental rate must not exceed 30 percent of the average gross monthly income for a household at the MFI level required by [Section 23-3E-4030 \(Affordability Requirements\)](#), adjusted for unit size where one bedroom equals one person.
- (D) The Housing Director may waive the transit-oriented requirement in Subsection (B)(5) if the development meets one of the following criteria:
 - (1) The development will be located in a high opportunity area as identified by the Housing Director or established in the program guidelines;
 - (2) The applicant applies for State or Federal Government funds, including the Low Income Housing Tax Credit Program, related to the development;
 - (3) The development affirmatively furthers fair housing as determined by the Housing Director and in consideration of the City's analysis of impediments or assessment of fair housing; or
 - (4) The development is within one half-mile of a planned local public transit route documented in a plan approved by the Capital Metropolitan Transportation Authority.
- (E) An applicant may not deny a prospective tenant affordable rental housing based solely on the prospective tenant's participation in the Housing Choice Voucher Program or in any other housing voucher program that provides rental assistance.

23-3E-4030 Affordability Requirements

- (A) To be eligible for the S.M.A.R.T. Housing Program, a housing development must comply with the requirements of this section.
 - (1) For ownership dwelling units 10 percent of dwelling units must be available to households at or below 80 percent of the MFI.
 - (2) For rental dwelling units, 10 percent of dwelling units must be available to households at or below 60 percent of the MFI.
- (B) For a household to be eligible to purchase or rent a reasonably-priced dwelling unit, the household's gross annual income may not exceed the MFI required by Subsection (A).

23-3E-4040 Required Affordability Period

- (A) To be eligible for the S.M.A.R.T. Housing Program, unless a longer term is required by law, private agreement, or another provision of this code, all reasonably-priced dwelling units in a S.M.A.R.T. Housing development must remain reasonably-priced for the following affordability periods commencing on the date the final certificate of occupancy is issued:
 - (1) For ownership dwelling units, a period of at least 99 years; and
 - (2) For rental dwelling units, a period of at least 40 years.
- (B) If a reasonably-priced dwelling unit within a S.M.A.R.T. Housing development is converted from a rental unit to an owner-occupied dwelling unit during the applicable affordability period, the dwelling unit is subject to the affordability period and affordability requirements applicable to an owner-occupied dwelling unit. The new affordability period begins on the date that the converted dwelling unit is available for owner occupancy.
- (C) If the development does not comply with the requirements to maintain the applicable percentage of dwelling units as reasonably-priced for the duration of the applicable affordability period, the developer shall reimburse the City for all fees waived plus a penalty charge equal to the total amount of fees waived.
- (D) The applicant is required to execute an agreement, restrictive covenant, or other binding restriction on land use that preserves affordability in compliance with the S.M.A.R.T. Housing Program.

23-3E-4050 Fee Waivers and Exemptions

- (A) A developer is eligible for a 100 percent waiver of the fees if the Housing Director determines that the housing development meets the requirements of Section 23-3E-4030 (Affordability Requirements) and Section 23-3E-4040 (Required Affordability Period). The fees that can be waived include, but are not limited to:
- (1) Construction inspection fee;
 - (2) Development assessment fee;
 - (3) Traffic impact analysis fee;
 - (4) Traffic impact analysis revisions fee;
 - (5) Regular zoning fee;
 - (6) Interim to permanent zoning fee;
 - (7) Miscellaneous zoning fee;
 - (8) Zoning verification letter fee;
 - (9) Board of Adjustment fee;
 - (10) Managed growth agreement fee;
 - (11) Preliminary subdivision fee;
 - (12) Final subdivision fee;
 - (13) Final without preliminary subdivision fee;
 - (14) Miscellaneous subdivision fee;
 - (15) Consolidated site plan fee;
 - (16) Miscellaneous site plan fee;
 - (17) Site plan revision fee;
 - (18) Site plan - construction element fee;
 - (19) Building review plan fee;
 - (20) Building permit fee;
 - (21) Electric permit fee;
 - (22) Mechanical permit fee;
 - (23) Plumbing permit fee;
 - (24) Concrete permit fee;
 - (25) Demolition permit fee;
 - (26) Electric service inspection fee;
 - (27) Move house onto lot fee;
 - (28) Move house onto city right-of-way fee; and
 - (29) Neighborhood plan amendment fee.

(B) Additional fees that may be waived by separate ordinance or agreement include:

- (1) Austin water utility capital recovery fees;
- (2) Parkland dedication fees;
- (3) Austin energy line extensions;
- (4) Transportation mitigation fees; and
- (5) Service connections to certain lots.

23-3E-4060 Reporting, Compliance, and Enforcement

The Housing Director shall establish reporting, compliance, monitoring, and enforcement mechanisms and procedures for implementing the S.M.A.R.T. Housing Policy and Program.

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Division 23-3E-5: Additional Affordable Housing Incentives

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23-3E-5010 Additional Affordable Housing Incentives

- (A) An applicant who provides income-restricted affordable units, as verified by the Housing Director, may request a parking adjustment from the Planning Director before the site plan is approved under Article 23-4D (Specific to Zones).
- (B) For developments that meet S.M.A.R.T. Housing Program criteria under Sections 23-3E-4020, 23-3E-4030, and 23-3E-4040, the following incentives apply:
 - (1) In the R1B, R1C, R2A, R2B, R2C, R2D, R2E, R3B, R3C, and R3D zones, a noncomplying structure may be replaced with a new structure if the new structure does not increase the existing degree of noncompliance with yard setbacks.
 - (2) For an accessory dwelling unit, all of the allowed gross floor area may be on the second story, if any.
 - (3) For developments that require an analysis under Article 23-9C-2 (Transportation Impact Analysis), the maximum cost of system improvements that may be required under 23-9C-1010 (Mitigation of Transportation Impacts) is reduced according to the following requirements:
 - (a) If at least 10 percent, but less than 20 percent, of the dwelling units are reasonably-priced, the maximum cost is reduced by the percentage of affordable units;
 - (b) If at least 20 percent, but less than 50 percent, of the dwelling units are reasonably-priced, the maximum cost is reduced by 50 percent; and
 - (c) If at least 50 percent of the dwelling units are reasonably-priced, no mitigation may be required.

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23-3E-6010 Affordability Impact Statements

- (A) **Administration.** The Housing Director shall adopt and implement guidelines or rules to implement this division.
- (B) **Proposed Changes Affecting Affordability.** A new ordinance or rule, or a change to an existing ordinance, rule, or comprehensive plan that may affect housing affordability may not be approved unless the Housing Director has prepared an Affordability Impact Statement (AIS) for the proposed regulation or change.
 - (1) The sponsoring department initiating the proposed change or adoption of a new ordinance or rule must submit an Affordability Impact Statement Request Form and provide a copy of the draft ordinance or rule in legislative format to the Housing Director.
 - (2) An AIS must accompany any proposed amendments or new regulations seeking City board, commission, or subcommittee recommendations.
 - (3) If changes that affect housing affordability are made to the draft ordinance or rule during the external stakeholder process, the sponsoring department must submit a new Affordability Impact Statement Request Form to the Housing Director with an updated draft of the proposed ordinance or rule so that the director may update the AIS before the item appears before the council.
 - (4) If an AIS shows a potentially negative overall effect on housing affordability, the proposed change may only go forward after approval from the city manager.
 - (5) An AIS is not required for the council adoption of annexations, budgets, or budget amendments, except for those that increase development fees that may affect housing affordability, which are not otherwise waived.

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Zoning Code



[PC Motion #14](#)

Recommend approval of Chapter 23-4 with amendments previously approved.

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Division 23-4A-1: Purpose

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23-4A-1010 Purpose

This chapter protects and promotes the public health, safety, and general welfare of the public; and implements the Comprehensive Plan. This chapter establishes the land use and building form requirements that are intended to promote compatible land patterns.

23-4A-1020 Applicability

This chapter applies to all property, land uses, and development within the City, except as may be specifically exempted within this Title.

23-4A-1010: Planned Unit Development (PUD) Zone

[PC Motion #15](#)

Reference back to the Comprehensive Plan (23-1A-1020) as recommended by staff.

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Division 23-4A-2: Establishment of Zones

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23-4A-2010 Purpose

- (A) This division establishes and describes the base and overlay zones. These zones implement the Comprehensive Plan by providing a mix of intensity of uses and development that are compatible with the character of the City's many neighborhoods, districts and corridors.
- (B) The Comprehensive Plan land use designations and corresponding zones are set forth in Table 23-4D-1050(A) (Comprehensive Plan Land Uses and Corresponding Zones).

23-4A-2020 Zones Described and Established

- (A) Residential House-Scale Zone.
 - (1) Residential house-scale (R) zone category includes single-family detached homes, duplexes, small multiplexes, cottages, row houses, and garage apartments or granny flats.
 - (2) Residential house-scale zones are grouped by intensity of typical number of units from least intense to most intense.
 - (3) The requirements applicable to residential house-scale zones are set forth in Division 23-4D-2 (Residential House-Scale Zones).
 - (4) Table (A) establishes the zones included within residential house-scale.

Table 23-4A-2020(A) Residential House-Scale Zones

RR	Rural Residential	23-4D-2050
LA	Lake Austin	23-4D-2060
R1A	Residential 1A	23-4D-2070
R1B	Residential 1B	23-4D-2080
R1C	Residential 1C	23-4D-2090
R2A	Residential 2A	23-4D-2100
R2B	Residential 2B	23-4D-2110
R2C	Residential 2C	23-4D-2120
R2D	Residential 2D	23-4D-2130
R2E	Residential 2E	23-4D-2140
R3A	Residential 3A	23-4D-2150

Table 23-4A-2020(A) Residential House-Scale Zones (continued)

R3B	Residential 3B	23-4D-2160
R3C	Residential 3C	23-4D-2170
R3D	Residential 3D	23-4D-2180
R4A	Residential 4A	23-4D-2190
R4B	Residential 4B	23-4D-2200
R4C	Residential 4C	23-4D-2210

(B) Residential Multi-Unit Zone.

- (1) Residential multi-unit (RM) zone category covers a diverse set of zone districts that include mobile home parks, three to four story-tall detached buildings, and up to multi-story residential buildings that occupy an entire block. These zones allow transition between lower-intensity residential and higher-intensity residential zones.
- (2) Residential multi-unit zones are generally grouped in order from shortest to tallest allowed height.
- (3) The requirements applicable to residential multi-unit zones are set forth in Division 23-4D-3 (Residential Multi-Unit Zones).
- (4) An affordable housing bonus program may be used on a site zoned RM.
- (5) Table (B) establishes the zones included within residential multi-unit.

Table 23-4A-2020(B) Residential Multi-Unit Zones

RM1A	Residential Multi-Unit 1A	23-4D-3050
RM1B	Residential Multi-Unit 1B	23-4D-3060
RM2A	Residential Multi-Unit 2B	23-4D-3070
RM2B	Residential Multi-Unit 2A	23-4D-3080
RM3A	Residential Multi-Unit 3A	23-4D-3090
RM4A	Residential Multi-Unit 4A	23-4D-3100
RM5A	Residential Multi-Unit 5A	23-4D-3110
MHP	Manufactured Home Park	23-4D-3120

(C) Mixed-Use Zone.

- (1) Mixed-use (MU) zone category includes housing and office or service employment within walking distance for low-intensity residential neighborhoods and maintains areas with an existing pattern of commercial uses in a house-scale building. These zones allow a horizontal or vertical mix of uses along corridors and in nodes with increase walkability.
- (2) The mixed-use zones are generally grouped in order from shortest to tallest allowed height.
- (3) The requirements applicable to mixed-use zones are set forth in Division 23-4D-4 (Mixed-Use Zones).

- (4) Table (C) establishes the zones included within mixed-use.

Table 23-4A-2020(C) Mixed-Use Zones

MU1A	Mixed-Use 1A	23-4D-4060
MU1B	Mixed-Use 1B	23-4D-4070
MU1C	Mixed-Use 1C	23-4D-4080
MU1D	Mixed-Use 1D	23-4D-4090
MU2A	Mixed-Use 2A	23-4D-4100
MU2B	Mixed-Use 2B	23-4D-4110
MU3A	Mixed-Use 3A	23-4D-4120
MU4A	Mixed-Use 4A	23-4D-4130
MU4B	Mixed-Use 4B	23-4D-4140
MU5A	Mixed-Use 5A	23-4D-4150

- (D) Main Street Zone.

- (1) Main street (MS) zone category requires a vertical mix of residential and commercial uses along corridors and activity hubs to increase walkability. These zones, located at neighborhood centers served by transit, provide housing and convenient access to employment, amenities, and services for nearby residents in lower-intensity residential zones.
- (2) Main street zones are generally grouped in order from shortest to tallest allowed height.
- (3) The requirements applicable to main street zones are set forth in Division 23-4D-5 (Main Street Zones).
- (4) Table (D) establishes the zones included within main-street.

Table 23-4A-2020(D) Main Street Zones

MS1A	Main Street 1A	23-4D-5060
MS1B	Main Street 1B	23-4D-5070
MS2A	Main Street 2A	23-4D-5080
MS2B	Main Street 2B	23-4D-5090
MS2C	Main Street 2C	23-4D-5100
MS3A	Main Street 3A	23-4D-5110
MS3B	Main Street 3B	23-4D-5120

- (E) Regional Center Zone.

- (1) Regional center zones are intended for areas identified in the Comprehensive Plan as centers that include jobs and housing.
- (2) The requirements applicable to regional center zones are set forth in Division 23-4D-6 (Regional Center Zones).

- (3) Table (E) establishes the zones included within regional center.

Table 23-4A-2020(E) Regional Center Zones

UC	Urban Center	23-4D-6060
CC	Commercial Center	23-4D-6070
DC	Downtown Core	23-4D-6080

- (F) Commercial and Industrial Zone.

- (1) Commercial and industrial zones include uses related to recreation, office and service, storage and warehousing of goods, the manufacturing of goods, research related uses, and other similar uses.
- (2) The requirements applicable to commercial and industrial zones are set forth in Division 23-4D-7 (Commercial and Industrial Zones).
- (3) Table (F) establishes the zones included within commercial and industrial.

Table 23-4A-2020(F) Commercial and Industrial Zones

CR	Commercial Recreation	23-4D-7050
CW	Commercial Warehouse	23-4D-7060
IF	Industrial Flex	23-4D-7070
IG	Industrial General	23-4D-7080
IH	Industrial Heavy	23-4D-7090
R&D	Research & Development	23-4D-7100

- (G) Other Zones.

- (1) The other zones include the following uses: agriculture, airport related services, conservation lands, parks, publicly owned land, development reserves and planned unit developments.
- (2) The requirements applicable to these zones are set forth in Division 23-4D-8 (Other Zones).
- (3) Table (G) establishes the zones included within this zone.

Table 23-4A-2020(G) Other Zones

AG	Agricultural	23-4D-8050
AV	Aviation Services	23-4D-8060
CL	Conservation Lands	23-4D-8070
DR	Development Reserve	23-4D-8080
P	Public	23-4D-8110
PR	Parks	23-4D-8120
PUD	Planned Unit Development	23-4D-8130

(H) Overlay Zones.

- (1) An overlay zone provides additional standards or more specific standards to geographic areas of the City. This zone ensures that development.
- (2) The requirements applicable to overlay zones are set forth in Division 23-4D-9 (Overlay Zones).
- (3) Table (H) establishes the overlay zones.

Table 23-4A-2020(H) Overlay Zones		
BS	Barton Springs	23-4D-9030
CD	Capitol Dominance	23-4D-9040
CVC	Capitol View Corridor	23-4D-9050
DCS	Downtown Civic Spaces	23-4D-9060
DP	Downtown Plan	23-4D-9070
HCR	Hill Country Roadway	23-4D-9080
H and HD	Historic Landmark and Historic District	23-4D-9090
LA	Lake Austin	23-4D-9100
UNO	University Neighborhood	23-4D-9110
WO	Waterfront	23-4D-9130

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Division 23-4A-3: Zoning Map

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23-4A-3010 Adoption of Zoning Map

- (A) The map and related explanatory notes on the map are adopted by reference and declared part of this Title.
- (B) The zoning map may be divided into sections or include a supplemental map.
- (C) The zones included on the zoning map are established in Division 23-4A-2 (Establishment of Zones).

23-4A-3020 Zone Boundaries

- (A) If a site is divided by a zone boundary, the regulation of each zone applies to the portion of the site located in that zone.
- (B) A zone boundary is determined as follows:
 - (1) If a boundary of a zone is shown as approximately following a street, alley, or property boundary, the zone boundary coincides with the street, alley, or property boundary.
 - (2) If a boundary of a zone is shown within a street, alley, right-of-way, or creek, the center line of the street, alley, right-of-way, or creek is the zone's boundary.
 - (3) If a boundary of a zone divides a parcel, the location of the zone's boundary is determined:
 - (a) by the dimensions shown on the zoning map; or
 - (b) if the dimensions are not shown, by use of the scale appearing on the zoning map.
 - (4) If a public street, alley, or right-of-way is vacated or abandoned, the zone requirements applicable to the abutting property apply out to the centerline of the vacated or abandoned street, alley, or right-of-way.

23-4A-3030 Zone Boundary or Classification Changes

- (A) If a zone boundary, classification, or explanatory note included on the zoning map is changed, the zoning map will be updated within 30 days following the date the ordinance that changes the map is effective.
- (B) A change to the zoning map must comply with this Title.

23-4A-3040 Maintenance of Zoning Map

- (A) The city clerk shall maintain in the City's files the original zoning map and all zoning map amendments.
- (B) The city manager shall designate a city department to retain a copy of the current zoning map and shall make the current zoning map available to the City's website.

Division 23-4A-4: How to Use the Zoning Code

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23-4A-4010 Purpose

This division is advisory only and is intended to give a brief overview of Chapter 23-4, which may be referred to as the Zoning Code.

23-4A-4020 Organization

(A) Chapter 23-4 (Zoning) is a chapter of Title 23 (Land Development Code). It is interpreted, implemented, and enforced in conjunction with other related chapters of the Land Development Code. This Chapter is organized as follows:

(1) **Article 23-4A: Introduction**

Establishes the purpose and intent of the Zoning Code and introduces how the zones applied in the City are organized and mapped.

(2) **Article 23-4B: Zoning Administration and Procedures**

Provides the procedures for land use approvals, including a conditional use or minor use permit, land use determinations, zoning map amendments, and variances and special exceptions.

(3) **Article 23-4C: General to Large Sites**

Provides the general requirements for large sites, including internal connectivity and open space.

(4) **Article 23-4D: Specific to Zones**

Contains regulations for all zones, including allowed uses and permit requirements, development standards, and parking requirements.

(5) **Article 23-4E: Supplemental to Zones**

Establishes development standards for code topics such as private frontages; outdoor lighting; parking and loading; landscaping and screening; docks, bulkheads and shorelines; supplemental standards for specific uses, building standards, and some additional generally applicable standards.

- (B) Other chapters of Title 23 (Land Development Code) that are cross-referenced from Chapter 23-4 (Zoning Code) include:

(1) **Chapter 23-1: Purpose and Applicability**

Establishes the legal foundation for the Code and includes an overview of its purpose, authority, jurisdiction, rules of interpretation, and consistency with the City of Austin's Comprehensive Plan.

(2) **Chapter 23-2: Administration and Procedures**

Establishes the detailed procedures for the submittal of applications, provision of notice, public hearings, text amendments, quasi-judicial or administrative relief, and definitions of all terms, land uses, and measurements used in the Land Development Code.

(3) **Chapter 23-3: General Planning Requirements General to All**

Provides the general requirements for parkland dedication, urban forest protection and replenishment, water quality, and affordable housing bonuses across all zones and for property in the downtown.

(4) **Chapter 23-5: Subdivision**

Establishes the processes and requirements for the subdivision of land.

(5) **Chapter 23-6: Site Plan**

Establishes the processes and requirements for the preparation and submittal of a site plan for new development.

(6) **Chapter 23-7: Building, Demolition and Relocation Permits: Special Requirements for Historic Structures**

Provides the requirements for building and demolition permits, relocation permits, and special requirements for historic structures.

(7) **Chapter 23-8: Signage**

Establishes the permitting requirements and standards for permanent and temporary signs.

(8) **Chapter 23-9: Transportation**

Contains the procedures and standards for right-of-way and transportation improvements; traffic impact analyses; street design; standards for the construction of driveways, sidewalks and trails; transportation design management; access and connectivity; and road utility districts.

(9) **Chapter 23-10: Infrastructure**

Contains the procedures and standards for utility service; water districts; water and wastewater capital recovery fees; and reclaimed water; and drainage.

(10) **Chapter 23-11: Technical Codes**

Contains all the technical codes adopted by the City, including for example, the Building Code, Electrical Code, Mechanical Code, Plumbing Code, Fire Code, and Energy Code.

(11) **Chapter 23-12: Airport**

(12) **Chapter 23-13: Terms and Definitions**

Article 23-4B: Zoning Administration and Procedures

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- 23-4B-4030 Special Exception-Level 1
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Division 23-4B-1: Land Use Approvals

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23-4B-1010 Purpose and Applicability

- (A) This division establishes procedures for land use permits authorized under this Title. Approval of a land use permit allows greater consideration of the overall context for development than other kinds of administrative applications and may include site-specific conditions to ensure compatibility with surrounding uses.
- (B) Uses that may be allowed in compliance with this division are generally in keeping with the nature and scale of development allowed in a zone and do not require a rezone or other legislative approval.
- (C) Unless otherwise specified, authority and responsibility for implementing this division is delegated to the Development Services Director, which is referred to in this division as “the director.” However, the city manager may from time to time delegate particular functions under this division to one or more other City departments, which shall control over the general delegation in this subsection.

23-4B-1020 Conditional Use Permit

#20

(A) Purpose and Applicability

- (1) A conditional use permit approved by the Land Use Commission is required in compliance with this section to initiate a use classified as a conditional use under Article 23-4D (Specific to Zones).
- (2) The purpose of requiring a conditional use permit is to ensure that approval of uses which may significantly affect surrounding areas takes into account the context of a proposed development in relation to the public realm and allows for site-specific conditions to mitigate effects on surrounding areas.

(B) Application Requirements

(1) Planning Element

- (a) In addition to information required under Division 23-2B-1 (Application Requirements), an application for a conditional use permit must include a planning element submitted on a form approved by the director.

23-4B-1020: Conditional Use Permit

PC Motion #20

Reinstate LDC 25-5-150 to prevent revolving door for same CUP requests.

Reinstate LDC 25-5-145(C)(4) to ensure Large Retail Uses do not adversely affect future redevelopment.

Leave the Language as is in D3 regarding advisory board input on CUPs in Waterfront Overlay.

(b) The planning element must include any information required by the director to evaluate whether a proposed use meets the standards for approval under Subsection (E), but does not need to include construction-level detail required for a construction element or building permit application.

- (2) **Concurrent Applications.** An applicant may submit an application for a construction-level approval, including a building permit or a site plan construction element, concurrent with the planning element of a conditional use permit under Section 23-2A-2020 (Concurrent Applications).

(C) Administrative Review Process

- (1) **Notice of Application.** The director shall provide notice of an application for a conditional use permit under Section 23-2C-5010 (Notice of Application) and allow parties to submit comments on the application for a period of at least 14 days.
- (2) **Director's Report.** Following the comment period, the director shall provide the applicant with a report including:
- (a) The director's preliminary recommendation as to whether the planning element is sufficient to satisfy the approval criteria in Subsection (E); and
 - (b) If applicable, a description of updates required under Section 23-2B-1040 (Update and Expiration) for any concurrent applications filed **under** Subsection (B)(2).
- (3) **Applicant's Response.** Following receipt of the director's report, and before the application expires, **under** Section 23-2B-1040 (Update and Expiration), an applicant may:
- (a) Request that the application be scheduled for public hearing before the Land Use Commission;
 - (b) Provide revisions to the planning element or other information required to address issues identified in the director's report; or
 - (c) Withdraw the application.

- (D) **Public Hearing and Notification.** **The Once the director has determined that an application for a conditional use permit complies with applicable site development regulations, the** director shall schedule a public hearing before the Land Use Commission **in accordance with Subsection (C)(3) and** provide notice of the hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice).

(E) Action by Land Use Commission on Application

- (1) **Decision.** After conducting a public hearing on the application, and considering the director's recommendation, the Land Use Commission shall approve, conditionally approve, or deny a conditional use permit in accordance with this subsection.
- (2) **Notice of Decision.** Within one day of the Land Use Commission's decision on a conditional use permit application, the director shall issue notice of the Land Use Commission's decision under Section 23-2C-5020 (Notice of Administrative Decision).
- (3) **Findings for Approval.** To approve or conditionally approve an application for a conditional use permit, the Land Use Commission must find that the proposed use is:

- (a) Consistent with the applicable goals and policies of the Comprehensive Plan and the purpose of the zone in which the site is located;
 - (b) Not detrimental to public health, safety, and welfare; and
 - (c) Reasonably compatible with existing or approved uses in the surrounding area.
- (4) **Review Criteria.** In determining whether an application meets the findings required for approval under Subsection (E)(1), the Land Use Commission shall consider the extent to which the proposed use:
- (a) Is generally compatible in scale, intensity, and character with adjacent developments and neighborhoods;
 - (b) Includes improvements, either onsite or within the public right-of-way, to mitigate adverse effects related to traffic, noise, odors, visual nuisances, adverse flooding, and similar adverse effects to adjacent developments and neighborhoods;
 - (c) Can safely accommodate anticipated vehicular and pedestrian traffic consistent with existing and anticipated traffic in surrounding area;
 - (d) Incorporates thoroughfare adjustments, traffic control devices, and access restrictions to control or divert vehicular traffic flow as may be needed to mitigate vehicle traffic on adjacent thoroughfares;
 - (e) Incorporates screening, buffers, and other features to minimize adverse visual or noise effects of the proposed use on adjacent properties; and
 - (f) Meets the site development standards of the zone in which the proposed use is located.

(F) **Conditions of Approval**

- (1) **General Conditions.** In approving a conditional use permit, the Land Use Commission may impose conditions that are reasonably related to the findings required under Subsection (E). These conditions may include, but are not limited to:
- (a) Limitations on building size, including floor area ratio (FAR), height, or gross floor area;
 - (b) Limitations on impervious cover;
 - (c) Placement or orientation of buildings and entryways;
 - (d) Enhanced setbacks, open space, or buffer standards;
 - (e) A fence, wall, or screen;
 - (f) Additional landscaping or erosion controls;
 - (g) Street improvements or dedications;
 - (h) Vehicular access and enhanced parking or loading standards;
 - (i) Hours of operation; and
 - (j) Other measures that the Land Use Commission determines are required for compatibility with surrounding uses and for the preservation of public health, safety, and welfare.

#19

(2) **Late Hours Permit**

- (a) If the Land Use Commission approves a conditional use permit for a bar, nightclub, or restaurant with a late-hours permit, the parking area associated with the use must be a minimum of 200 feet from a Residential House-Scale Zone, unless the use is located within an enclosed shopping center.
- (b) The Land Use Commission may waive the 200-foot restriction if it finds that the effects of a parking area are sufficiently mitigated based on the criteria in Subsection (E).

- (G) **Appeal of Decision on Conditional Permit.** The Land Use Commission's decision on a conditional use permit application may be appealed to the city council under Article 23-21 (Appeals).

23-4B-1030 Minor Use Permit

#51

(A) **Purpose and Applicability**

- (1) A minor use permit may be approved under this section for a use classified as a minor use in Article 23-4D (Specific to Zones).
- (2) The procedures established in this section authorize the director to consider compatibility with surrounding uses and impose appropriate conditions administratively.

(B) **Application Requirements.** In addition to information required in compliance with Division 23-2B-1 (Application Requirements), an application for a minor use permit:

- (1) Must include a planning element containing information required by the director to determine whether the application meets the criteria established in Subsection (C); and
- (2) May be filed concurrently with an application for an construction element or building permit required to construct the use.

(C) **Administrative Review Process**

- (1) **Notice of Application.** The director shall provide notice of an application for a minor use permit under Section 23-2C-5010 (Notice of Application) and allow parties to submit comments on the application for a period of at least 14 days.
- (2) **Director's Action on Application.** After the comment period on the application has closed, the director shall:
 - (a) Approve the application;
 - (b) Approve the application with conditions; or
 - (c) Disapprove the application, in which case the applicant may submit an update under Section 23-2B-1040 (Update and Expiration).
- (3) **Notice of Decision.** Within one day of the director's decision on a minor use permit application, the director shall issue notice of the decision under Section 23-2C-5020 (Notice of Administrative Decision).

- (D) **Standard for Approval.** The director shall approve or conditionally approve a minor use permit in compliance with this section if the director finds that the application satisfies

23-4B-1020 (F)(2): Conditional Use Permit

[PC Motion #19](#)

Move Section 23-4B-1020(F)(2) Late Hours Permit to Specific for Use for Restaurant and Bar.

23-4B-1030: Minor Use Permit

[PC Motion #51](#)

Amend Section 23-4B-1030 Minor Use Permits to allow an appeal to City Council if Planning Commission does not approve by 2/3.

the findings and criteria for approval of a conditional use permit in compliance with Subsection 23-4B-1020(E) (Conditional Use Permit).

- (E) **Conditions of Approval.** The director shall impose conditions on the approval of a minor use permit in compliance with the same requirements that apply to the Land Use Commission's approval of a conditional use permit in compliance with Subsection 23-4B-1020(F) (Conditional Use Permit).
- (F) **Appeal.** An interested party may appeal the director's decision on a minor use permit to the planning commission under Article 23-2I (Appeals).

23-4B-1040 Effect of Land Use Permit

- (A) **Purpose and Applicability.** This section establishes the legal effect of conditional use permits and minor use permits approved under this article and specifies rules applicable to construction, expiration, and enforcement. For purposes of this section, the term "land use permit" refers to both conditional use permits and minor use permits.
- (B) **Permit Limited to Approved Use.** Approval of a land use permit:
 - (1) Authorizes development of the property consistent with the approved permit and any conditions imposed on the permit; and
 - (2) Applies only to the specific use and development site for which the permit was issued.
- (C) **Additional Approvals Required.** Initiation or development of a use approved by a land use permit may not occur until an applicant has obtained all administrative approvals required to start or construct the use.
- (D) **Restrictions on Enlargement of Use.** A use allowed by a land use permit must not be enlarged, extended, or increased in intensity unless an application for a new conditional use permit or minor use permit is approved in compliance with this article.
- (E) **Expiration of Land Use Permit.** A land use permit expires in compliance with Chapter 23-6 (Site Plan) unless the applicant obtains all approvals required to construct or start the use within one year from the date of approval.
- (F) **Suspension or Revocation of Permit.** If construction occurs in violation of a land use permit, or a condition imposed in compliance with a land use permit, the director or building official may suspend or revoke the permit under Article 23-2J (Enforcement).
- (G) **Prohibition on New Applications.** If a land use permit is denied or revoked, the director may not accept a new application for the same or substantially the same use for 365 days from the date of the denial or revocation.

23-4B-1050 Temporary Use Permit

- (A) **Purpose and Applicability.** This section authorizes the director to issue a temporary use permit for short-term land uses that are not otherwise allowed within the applicable zone, if the use does not interfere with surrounding uses or pose a threat to public health, safety, and welfare.
- (B) **Application Requirements.** An application for a temporary use permit:

- (1) May not be submitted later than 16 days before the date that the temporary use is proposed to begin; and
 - (2) Must include all information required in compliance with Division 23-2B-1 (Application Requirements), in addition to other information required by the director based on the nature of the proposed temporary use.
- (C) **Temporary Uses Allowed.** The director shall approve a temporary use permit for the uses in Table (A) (Temporary Uses Allowed), subject to the criteria, conditions, and time limitations established in Subsections (D)-(F).

Table 23-4B-1050 (A) Temporary Uses Allowed

Temporary Uses

Recreation Uses and Events

A circus, carnival, rodeo, fair, or similar activity.

An outdoor art craft show or exhibit.

An outdoor public, religious, patriotic, or historic assembly or exhibit, including a festival, benefit, fund raising event, or similar use that typically attracts a large audience.

Real Estate Sales and Services

Model homes or apartments and related real estate services, if the use is located within the residential development to which the use pertains.

An on-site construction field office, if the use is located in a portable structure and conducted for not more than 180 days.

A sales office for a new subdivision may be allowed as a temporary use in compliance with this division if the sales office is located within the subdivision and at least 200 feet from existing dwellings outside the subdivision.

A single dwelling located in a mobile structure on a construction site.

Retail and Seasonal Sales

Christmas tree, pumpkin, or other similar seasonal event sales.

Seasonal retail sale of agricultural or horticultural products, if the use is located at least 200 feet from a dwelling.

An outdoor special sale, including a swap meet, flea market, parking lot sale, or similar activity.

Retail use that does not provide personal services, food preparation or the sale or consumption of alcoholic beverages; a portable toilet serving the retail use, whether located inside or outside of the use; or the storage of hazardous materials as defined by Division 23-11B-7 (Fire Code).

An advertising or promotional event involving the use of a hot air balloon is allowed in all commercial, industrial, and special purpose base zones.

(D) **Permit Duration, Renewal, and Revocation**

- (1) **Permit Duration.** The director shall grant a temporary use permit in compliance with this section for no more than 180 days.
- (2) **Extension.** At the request of an applicant, the director may renew or extend a temporary use permit by no more than an additional 180 days.
- (3) **Revocation.** The director may revoke a temporary use permit at any time, if the use no longer satisfies the criteria required in compliance with Subsection (D) or poses a

threat to public health, safety, and welfare. The revocation is subject the procedures established in Article 23-2J (Enforcement), except that suspension is not required before revocation.

- (E) **Restoration and Cleanup.** A person engaging in a temporary use allowed in compliance with this section must remove all debris, litter, and other evidence of the use from the site on termination of the use.
- (F) **Approval Criteria.** The director may approve a temporary use permit for a use listed in Table (A) (Temporary Uses Allowed) if the director determines that the use is compatible with nearby uses and will not:
 - (1) Impair the normal, safe, and effective operation of a permanent use on the same site;
 - (2) Adversely affect public health, safety, or convenience;
 - (3) Create a traffic hazard or congestion; or
 - (4) Interfere with the normal conduct of uses and activities in the vicinity.
- (G) **Conditions of Approval.** The director may issue condition approval of a temporary use permit as needed to make the determinations required in compliance with Subsection (D), and to minimize adverse effects on nearby uses, including, but not limited to, standards for hours of operation, frequency of use, parking, traffic circulation, screening, enclosure, site restoration, and clean-up.

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Division 23-4B-2: Code Interpretations and Use Determinations

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23-4B-2010 Purpose, Applicability, and Review Authority

- (A) This division establishes procedures by which a person may request a formal determination from the City regarding the meaning of applicable zoning regulations, either in relation to a specific development application or in general.
- (B) Unless otherwise specified, authority and responsibility for implementing this division is delegated to the Planning Director, which is referred to in this division as “the director.” However, the city manager may from time to time delegate particular functions under this division to one or more other City departments, which shall control over the general delegation in this subsection.

23-4B-2020 Code Interpretations

- (A) **Purpose and Applicability.** The director shall issue administrative decisions regarding the proper interpretation, meaning, or intent of a site development standard under Chapter 23-4 (Zoning) or a separately adopted zoning ordinance. Statements of policy or procedural requirements are not subject to this section.
- (B) **Project-Level Interpretation.** A code interpretation requested in connection with a development application is a “project interpretation” and is subject to the standards of this subsection.
 - (1) **Request for Interpretation.** During the application period for a site plan or building permit, an applicant may request that the director issue a project interpretation regarding whether the application complies with site development standards applicable under this Title or a separately adopted zoning ordinance. An application for a project interpretation tolls the review period required under Section 23-2B-1050 (Tolling of Expiration Period).
 - (2) **Notice and Decision.** The director shall:
 - (a) Provide notice of an application for a project interpretation under Section 23-2C-5010 (Notice of Application); and
 - (b) Within the applicable review period established under Division 23-3B-2 (Review Procedures):
 - (i) issue an interpretation under Subsection (D); and

- (ii) provide notice of the interpretation under Section 23-2C-5020 (Notice of Administrative Decision).
- (3) **Effect of Interpretation.** A project interpretation is binding on subsequent stages of review for the project, unless overturned by the Board of Adjustment on appeal under Section 23-4B-2030 (Administrative Appeal). An interpretation that is not appealed, or is upheld on appeal, may not be subsequently challenged through appeal of a site plan or building permit approval.
- (C) **Non-Project Interpretation.** A code interpretation that is not associated with a development application is a “non-project interpretation”, and is subject to the standards of this subsection.
 - (1) **Request for Interpretation.** A non-project interpretation may be requested by any person, at any time, or initiated by the director.
 - (2) **Notice and Decision.** The director shall provide notice of a non-project interpretation and application in the same manner required for project interpretations under Subsection (B)(2).
- (D) **Content of Interpretation.** In making a code interpretation under this section, the director shall provide a written explanation as to the general meaning of the referenced code sections and:
 - (1) For a project interpretation, explain how the code sections apply to the project for which the interpretation was requested; and
 - (2) For a non-project interpretation, provide common examples as to how the code sections apply to particular categories of development.
- (E) **Posting of Interpretations.** The director shall post code interpretations on the City’s website.

23-4B-2030 Use Determinations

- (A) **Purposes and Applicability.** This section establishes procedures for obtaining a determination by the director regarding:
 - (1) The appropriate classification of an existing or proposed land use or activity under Article 23-4D (Specific to Zones); or
 - (2) Whether an existing use or structure is non-conforming under Article 23-2G (Nonconformity).
- (B) **Application, Notification, and Decision Procedures**
 - (1) A use determination may be requested in the same manner as a code interpretation in compliance with Section 23-4B-2010 (Code Interpretations), and is subject to the same notice requirements of Section 23-2C-5010 (Notice of Application) and Section 23-2C-5020 (Notice of Administrative Decision).
 - (2) In making a use determination, the director shall explain how an existing or proposed use is appropriately classified under Article 23-4D (Specific to Zones) or, if applicable, whether an existing use or structure is legally nonconforming in compliance with Article 23-2G (Nonconformity).

23-4B-2040 Administrative Appeal

#22

- (A) **Project Interpretations.** A project code interpretation or use determination issued under this division for a particular development application may be appealed to the Board of Adjustment under Article 23-2I (Appeals). If the code interpretation or use determination is not appealed, or is upheld by the Board on appeal, a subsequent decision by the director to approve or disapprove a development application associated with the interpretation or determination may not be appealed under this section.
- (B) **Non-project Interpretations.** A non-project code interpretation or use determination issued under this division may be appealed to the Board of Adjustment under Article 23-2I (Appeals).
- (C) **Permitting Decisions.** Except as provided in Subsection (A), a **code interpretation or use determination associated with a** decision by the Development Services Director or another responsible director to approve or disapprove a development application may be appealed to the Board of Adjustment under Article 23-2I (Appeals).

23-4B-2040: Administrative Appeal

PC Motion #22

“(C) Permitting Decisions. Except as provided in Subsection (A), a decision by the Development Services Director or another responsible director to approve or disapprove a development application ~~because of non-compliance with the zoning code~~ may be appealed to the Board of Adjustment under Article 23-21 (Appeals).”

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Division 23-4B-3: Zoning Map Designations and Amendments

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23-4B-3010 Review Authority

Unless otherwise specified, authority and responsibility for implementing this division is delegated to the Planning Director, which is referred to in this division as “the director.” However, the city manager may from time to time delegate particular functions under this division to one or more other City departments, which shall control over the general delegation in this subsection.

23-4B-3020 Zoning Map Designation

(A) Land Within Zoning Jurisdiction

- (1) All land within the zoning jurisdiction shall be designated as a named zone under the procedures of State law and this division.
- (2) Different portions of a site may be designated as different zones, but only one zone designation may apply to any portion of a site.

(B) Annexed Property

- (1) Annexed property will be zoned in compliance with the procedures required by State law and this division.
- (2) From the date of annexation until a property is zoned, annexed property will be classified as an interim Rural Residential (RR) Zone, except as described below:

- (a) Property that is subject to a planned development area agreement will be classified as an interim Industrial Flex (IF) Zone and will be regulated by the planned development area agreement.
- (b) Property that is included in an approved preliminary plan or final plat for a Planned Unit Development subdivision will be classified as an interim Planned Unit Development (PUD) Zone regulated by the approved plan.
- (c) Property included in a final plat or an unexpired preliminary plan for a small lot subdivision that was approved under Article 23-5B (Subdivision Procedures) or Chapter 30-2 (Subdivision Requirements) will be classified as an interim Residential House-Scale 2E (R2E) Zone.
- (d) A lot is classified as an interim Residential House-Scale 1C (R1C) Zone if the lot:
 - (i) Is smaller than one acre;
 - (ii) Is included in a final plat or unexpired preliminary plan approved under Article 23-5B (Subdivision Procedures) or Chapter 30-2 (Subdivision Requirements); and
 - (iii) Does not meet the criteria in Subsections (B)(2)(a)-(B)(2)(c).
- (e) Any unzoned state or federally owned land within the City which is transferred to private interest shall assume an interim classification **under** this subsection.
- (f) **The director may not collect a base zoning application fee for a property formerly within the extraterritorial jurisdiction if:**
 - (i) **the application is submitted no later than one year after the effective date of annexation for the property;**
 - (ii) **the property contains an existing or planned use that is allowed to continue under Texas Local Government Code Section 43.002, but is not allowed by the interim zoning classification applicable to the property under this section; and**
 - (iii) **the property is less than 25 acres in size.**

23-4B-3030 Proposed Zoning Boundaries

The boundaries of zones in a zoning map amendment must be contiguous, unless the amendment is initiated by the Land Use Commission or the council.

23-4B-3040 Zoning Map Amendment Initiation

#23

- (A) A zoning map amendment may be initiated by the applicant or the applicant's authorized agent, the Land Use Commission, or the council.
- (B) **Notice.** For an amendment initiated by the Historic Landmark Commission, Land Use Commission, or council, the director shall give the record owner of the affected property notice of a zoning map amendment under Section 23-2C-5010 (Notice of Application) no later than 14 days after the motion initiating the amendment passed.

23-4B-3040: Zoning Map Amendment Initiation

[PC Motion #23](#)

Change the word "Applicant" to "Owner" in Section 23-4B-3040.

- (C) **Historic Landmark Overlay Zone.** A zoning map amendment regarding a Historic Landmark Overlay Zone may be initiated by the Historic Landmark Commission, the council, the applicant, or the applicant's authorized agent.
- (D) **Historic District Overlay Zone**
- (1) A zoning map amendment regarding a Historic District Overlay Zone may be initiated by:
 - (a) The Historic Landmark Commission;
 - (b) A petition of the applicants of at least 51 percent of the land, measured by land area, in the proposed zone or at least 51 percent of the applicants of individual properties in the proposed zone; or
 - (c) The council.
 - (2) Property owned by the City or other governmental entities shall be fully excluded from the area subject to petition of the applicants, except the property may be included in support if it contains structures or features that contribute to the historic character of the zone, as determined by the Historic Landmark Commission. The amount of the property to be calculated as supporting shall not exceed one-third of the 51 percent of the land in the proposed zone.

23-4B-3050 Zoning Map Amendment Application

- (A) **Application Requirements.** An application for a zoning map amendment must be filed in compliance with Division 23-2B-1 (Application Requirements), and must include any additional information required by the director to make a recommendation under this section. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection (F).
- (B) **Notice of Application.** For an amendment initiated by the applicant or the applicant's authorized agent, the director shall give notice of a zoning map amendment application under Section 23-2C-5010 (Notice of Application) and post signs on the affected property under Section 23-2C-3040 (Notification Signs) no later than 14 days after the application is filed.
- (C) **Expiration of Application.** A zoning map amendment application expires if any of the following occur:
- (1) The director does not schedule the application for a public hearing with the Land Use Commission within 180 days after the date of filing or with the Land Use Commission or the council within 180 days after the date on which the Land Use Commission or the council grants an indefinite postponement of a scheduled public hearing.
 - (2) The council does not adopt an ordinance within one year after the council's public hearing on the application is closed.

- (D) **Extension of Expiration Date.** An applicant may request that the director or the council extend an application that will expire in compliance with Subsection (C)(2). The request for extension must be in writing, must state good cause for the extension, and may not be for more than 180 days.

(E) **New Application Restrictions**

- (1) An applicant may not file a zoning map amendment request that is the same or less restrictive for the same property for 540 days from the date a zoning map amendment application is withdrawn or the council denies a zoning map amendment application, if the application that is withdrawn or denied:
 - (a) Is not recommended by the Land Use Commission and is withdrawn by the applicant before the council votes on the application;
 - (b) Is not recommended by the Land Use Commission and is denied by the council;
 - (c) Is amended by the applicant before the Land Use Commission makes a recommendation on the application and is withdrawn by the applicant before the council votes on the application; or
 - (d) Is amended by the applicant before the Land Use Commission makes a recommendation on the application and is denied by the council.
- (2) An applicant may not file a zoning map amendment request that is the same or less restrictive for the same property for 360 days from the date a zoning map amendment application is withdrawn or the council denies a zoning map amendment application, if the application that is withdrawn or denied:
 - (a) Is not recommended by the Land Use Commission and is withdrawn by the applicant before the director forwards the application to the council;
 - (b) Is recommended by the Land Use Commission and is withdrawn by the applicant before the council votes on the application; or
 - (c) Is recommended by the Land Use Commission and is denied by the council.

(F) **Findings for Reviewing Proposed Zoning Map Amendments**

- (1) An amendment to the zoning map may be approved only if all of the following findings are made:
 - (a) The proposed amendment is consistent with applicable goals, policies, and provisions of the Comprehensive Plan; and
 - (b) The proposed amendment will not be detrimental to the public interest, health, safety, or welfare of the City, and will add to the public good as described in the Comprehensive Plan.

23-4B-3060 Planning Director's Report

- (A) The director shall prepare a report that includes a recommendation on each zoning map amendment application for the Land Use Commission and for the council.
- (B) The director's report shall include a recommendation from the City attorney and a recommendation on the zoning map amendment application.

- (C) The director's report shall be filed with the Land Use Commission no later than 28 days after the applicable deadline for submittal of a zoning map amendment application.

23-4B-3070 Scheduling of Public Hearings

The director may not schedule a zoning map amendment for public hearings before the Land Use Commission and the council in the same week, unless the director receives written support of the application from the staff, neighborhood organizations, and the Zoning Subcommittee of the Land Use Commission.

23-4B-3080 Land Use Commission Hearing, Notice, and Recommendations

(A) **Hearing and Notice**

- (1) The Land Use Commission shall hold a public hearing on a zoning map amendment application no later than 61 days after the date the application is filed.
- (2) **Developments that Qualify for Type 1 Public Hearing Notice.** The director shall provide notice of the hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice) and post signs on the subject property under Section 23-2C-3040 (Notification Signs).
- (3) **Developments that Qualify for Type 2 Public Hearing Notice.** The director shall provide notice of the hearing under Section 23-2C-4040 (Type 2 Public Hearing Notice). This Title does not require posting signs for Type 2 Public Hearing Notice under Section 23-2C-4040 (Type 2 Public Hearing Notice).

(B) **Applications in the Waterfront Overlay (WO) Zone.** If the application includes property located within the Waterfront Overlay (WO) Zone:

- (1) The director shall request a recommendation from the Small Area Planning Joint Committee to be considered by the Land Use Commission at the public hearing.
- (2) If these commissions fail to make a recommendation, the Land Use Commission or review authority may act on the application without this recommendation.

(C) **Land Use Commission's Recommendation**

- (1) The Land Use Commission must make a recommendation to the council on a zoning map amendment application no later than 14 days after the Land Use Commission closes the public hearing on the application. If the Land Use Commission does not adopt a recommendation on an application, the director shall forward the application to the council without the Land Use Commission's recommendation.
- (2) The Land Use Commission may recommend that the council:
 - (a) Approve the application as proposed;
 - (b) Approve in a modified form;
 - (c) Approve the application as proposed or modified, subject to conditions; or
 - (d) Deny the application.

- (3) The director shall report the Land Use Commission's recommendation on the zoning map amendment application to the council.

23-4B-3090 Council Hearing, Notice, and Decision

(A) Hearing and Notice

- (1) The council must hold a public hearing on a zoning map amendment no later than 60 days after the date of the Land Use Commission's recommendation.
- (2) **Developments that Qualify for Type 1 Public Hearing Notice.** The director shall provide notice of the hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice) and post signs on the subject property under Section 23-2C-3040 (Notification Signs).
- (3) **Developments that Qualify for Type 2 Public Hearing Notice.** The director shall provide notice of the hearing under Section 23-2C-4040 (Type 2 Public Hearing Notice). This Title does not require posting signs for Type 2 Public Hearing Notice under Section 23-2C-4040 (Type 2 Public Hearing Notice).

(B) Postponement of Hearing

- (1) A postponement request specifying the reasons for the postponement must be written and submitted in writing to the director no later than seven days before the scheduled public hearing. The director shall provide a recommendation on the validity of the postponement request.
- (2) The City clerk shall enter an automatic postponement in the minutes with a notation of the identity of the party requesting the postponement.
- (3) An interested party is limited to one postponement for a period of no more than 60 days from the date of the scheduled public hearing, unless is approved by the council.
- (4) The council shall set the time and date of the new hearing at the time a postponement is granted.

(C) Council's Decision

- (1) The council may approve the zoning map amendment if the council determines that zoning map amendment is consistent with the Comprehensive Plan and the purposes of this Title.
- (2) After a public hearing on a zoning map amendment application, the council may:
 - (a) Approve the zoning map amendment application as requested subject to conditions;

- (b) Approve in a modified form; or
 - (c) Deny the proposed zoning map amendment.
- (D) Unless authorized by a resolution of the council, the director may not schedule a zoning map amendment ordinance for third reading by the council until:
 - (1) The City attorney has determined that the standards of the City Code have been met and that all required documents protect the interests of the City and have been executed. The City attorney shall make a determination regarding the documents no later than 14 days after the documents are submitted; and
 - (2) For an application to rezone a property within the Manufactured Home Park (MHP) Zone designation that contains an existing manufactured home park, no earlier than 270 days after all tenants entitled to notice under Section 23-3E-3020 (Tenant Notification Required) have received the required notification.
- (E) **Notice of Decision.** For zoning initiated by the Historic Landmark Commission, Land Use Commission, or council, within 14 days of the decision, the director shall mail notice of decision to interested parties under Section 23-2C-3020 (Mailed Notice).

23-4B-3100 Requirement for Approval by Three-Fourths of the Council

- (A) An affirmative vote of three-fourths of the members of the council is required to approve:
 - (1) Rezoning property to a Planned Unit Development if the Land Use Commission recommends denial of the application;
 - (2) The assignment of a Planned Unit Development zoning designation to previously unzoned property if the Land Use Commission recommends denial of the application by a vote of at least three-fourths of the members of the Land Use Commission; or
 - (3) A proposed rezoning that is protested in writing by the owners of no less than 20 percent of the area of land included in the proposed change or immediately adjoining the area included in the proposed rezoning and extending 200 feet from the area.
- (B) The area of thoroughfares and alleys must be included in the computation of land area defined in Subsection (A)(3).
- (C) The director shall include the land subject to a condominium regime in a protest in compliance with Subsection (A)(3) if:
 - (1) The protest is signed by the authorized officer of the condominium on behalf of the governing body of the condominium and the protest states that the governing body has authorized the protest petition in compliance with procedures required by its bylaws; or
 - (2) The protest is signed by the applicant of an individual condominium unit and the documents governing the condominium establish the right of an individual applicant to act with respect to the applicant's undivided interest in the common elements of the condominium.
- (D) The director shall include land owned by more than one person in a protest in compliance with Subsection (A)(3) if a written protest is filed by one of the applicants, except as otherwise provided in Subsection (C).

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Division 23-4B-4: Criteria for Variances and Special Exceptions

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23-4B-4010 Purpose and Applicability

- (A) This division establishes review criteria for zoning variances and special exceptions considered by the Board of Adjustment, consistent with the standards of this Title and Chapter 211 (Municipal Zoning Authority) of the Texas Local Government Code.
- (B) An application for a variance or special exception authorized under this division is subject to the application, notification, and other standards established under Division 23-2F-1 (Variances and Special Exceptions).

23-4B-4020 Variances

(A) Purposes and Applicability

- (1) This section establishes findings that the Board of Adjustment is required to make to grant a variance from zoning standards adopted under this chapter.
- (2) Consistent with the requirements of state law, the general purpose of a variance is to provide relief necessary to address hardships unique to a property which deprive the owner of reasonable use. A variance may not grant special privileges that are inconsistent with limitations on other properties in the area or in the zone in which the property is located.

(B) General Findings

- (1) The Board of Adjustment may grant a variance from a site development standard adopted under this chapter if the Board determines that:
 - (a) The requirement does not allow for a reasonable use of property;
 - (b) The hardship for which the variance is requested is unique to the property and is not generally characteristic of the area in which the property is located; and
 - (c) Development in compliance with the variance does not:
 - (i) Alter the character of the area adjacent to the property;
 - (ii) Impair the use of adjacent property that is developed in compliance with the City requirements; or
 - (iii) Impair the purposes of the standards of the zone in which the property is located.

23-4B-4010: Purpose and Applicability

PC Motion #24

Change the word "standards" to "regulations" in Section 23-4B-4010(A) and (B).

23-4B-4020: Variances

[PC Motion #25](#)

Change the word "standards" to "regulations" in Section 23-4B-4020(B)(1)(c)(iii).

- (C) **Findings for Parking and Loading Variances.** The Board of Adjustment may grant a variance from an off-street parking or loading facility requirement if, in addition to the findings required by Subsection (B), the Board finds that:
- (1) Current or anticipated traffic volume generated by the use of the property or a nearby property does not reasonably require strict compliance with and enforcement of the requirement from which a variance is requested;
 - (2) Development in compliance with the variance does not result in parking or loading on public thoroughfares that interferes with the free flow of traffic on thoroughfares; and
 - (3) Development in compliance with the variance does not create a safety hazard or any other condition that is inconsistent with the objectives of the Code.
- (D) **Bicycle Parking.** A variance may not be granted under this section for a bicycle parking standard. An applicant may seek an administrative waiver of a bicycle standard under Section 23-4E-3080 (Bicycle Parking).

23-4B-4030 Special Exception-Level 1

- (A) **Purposes and Applicability.** This section authorizes the Board of Adjustment to approve a special exception to provide relief for residential properties with longstanding code violations that are minimal in degree and have little to no effect on surrounding areas.
- (B) **Restrictions and Limitations.** A special exception approved in compliance with this section:
- (1) May be used to adjust height, building coverage, or setback required by this chapter;
 - (2) May not authorize an increase in the degree of noncompliance or excuse compliance with minimum health and safety requirements; and
 - (3) May not authorize a remodel or addition to existing structures, except to the extent required by the building official to meet minimum life and safety requirements.
- (C) **Required Findings.** The Board of Adjustment may approve a special exception in compliance with this section if the Board finds that:
- (1) The residential use for which the special exception is sought is allowed in a Residential House-Scale Zone;
 - (2) The violation does not pose a hazard to life, health, or public safety, as determined by the building official based on an inspection;
 - (3) The violation has existed for at least 10 years;
 - (4) The use is a permitted use or a nonconforming use;
 - (5) The structure does not share a lot with more than one primary residence; and
 - (6) Granting a special exception would not:
 - (a) Alter the character of the area;
 - (b) Impair the use of adjacent property that is developed in compliance with City code; or
 - (c) Grant a special privilege that is inconsistent with other properties in the area or in the zone where the property is located.

#26

23-4B-4030: Special Exception-Level 1

[PC Motion #26](#)

Change the word "may" to "shall" in Section 23-4B-4030(C).

23-4B-4040 Special Exception-Level 2

- (A) **Purposes and Applicability.** This section authorizes the Board of Adjustment to approve a special exception for a structure or improvement for a permitted use that was approved by the City in error, without deceit or bad faith on the part of the applicant or owner who obtained the permit.
- (B) **Required Findings.** The Board may approve a special exception in compliance with this section if the Board finds that:
 - (1) The structure for which the special exception is requested was allowed by the City in error and violates one or more standards of this chapter;
 - (2) Construction under the approved permit was completed or began before the permittee or landowner were made aware of the violation;
 - (3) The applicant did not practice fraud, deceit, or misrepresentation to obtain approval of the permit;
 - (4) At the time the permit was issued, no appeal or other proceeding regarding the property was pending before any body or tribunal;
 - (5) The applicant acted in good faith, expending funds or incurring obligations in reliance on the permit; and
 - (6) The approval of the special exception will not pose a threat to the public health, safety, and welfare.

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PC Motion #28

Instead of completely deleting 23-4C-1020(M)(2), move this standard to the zone districts where the Code lists parking maximums, and if the applicant wishes to exceed the parking maximum of the zoning district then the site must incorporate at least three of the items listed in Table 23-4C-1020(A).

Article 23-4C: General to All Development

Contents

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23-4C-1030	Common Open Space
23-4C-1040	Civic Open Space

Division 23-4C-2: Civic Open Space

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Division 23-4C-1: Large Site Requirements

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#27

23-4C-1010 Applicability

- (A) Except as provided in Subsection (B), a site that is **two** or more acres shall comply with Section 23-4C-1020 (Internal Circulation).
- (B) A site that is **two or more acres** shall comply with Section 23-4C-1030 (Common Open Space).
- (C) A site that is four acres or more shall comply with Section 23-4C-1040 (Civic Open Space).

23-4C-1020 Internal Circulation

- (A) Except as provided in Subsections (B), a site that is three or more acres shall comply with this section.
- (B) A site zoned park, residential house scale, or residential multi-unit is not subject to this section.
- (C) A site shall comply with Subsection (M) if:
 - (1) It is at least three acres but less than five acres; or
 - (2) It is located outside of the urban core; and
 - (a) The proposed development is entirely residential;
 - (b) Each building or amenity is connected with sidewalks;
 - (c) Each internal block complies with Section 23-9H-1050 (Block Lengths); and
 - (d) Vehicular connectivity provides for internal circulation.
- (D) A site must provide a shaded sidewalk for at least 50 percent of the internal circulation route that is associated with building frontage.
- (E) In this section, a sidewalk is shaded if trees are planted no more than 30 feet on center or a four foot awning unless the sidewalk is subject to requirements for a specific roadway type.

23-4C-1010: Applicability

PC Motion #27

In Section 23-4C-1010, create (B)(1) and (2) instead of (C) and (D), add "and that have a zone that requires it", and strike "~~four acres~~" and replace with "eight acres."

In Section 23-4C-1040(B)(3), replace "~~eight acres~~" with "twelve acres."

- (F) Development must provide an internal circulation route that establishes blocks, forms an interconnected, grid-like transportation system, and complies with this section.

(G) Project Circulation Plan

- (1) As part of the site plan, an applicant must submit a project circulation plan that identifies the internal circulation route.
- (2) The project circulation plan must demonstrate that the development:
 - (a) Complies with this subsection;
 - (b) Integrates with existing and planned streets, bicycle and pedestrian facilities, and trails in the surrounding area; and
 - (c) Is consistent with area mobility goals set forth, in the Transportation Plan or an approved collector plan.

(3) Review and Approval

- (a) A project circulation plan must be reviewed and approved by the director.
- (b) If no reasonable alternatives are available, the director may approve a project circulation plan that includes blocks that are bounded by railroad right-of-way, subdivision boundary lines, or natural features.
- (c) The director may approve revisions to the project circulation plan after considering the circulation characteristics of a proposed development plan, the need for access to adjoining properties, and the compatibility of surrounding development.
- (d) The director may waive a standard required in a project circulation plan if the director finds that the standard is not necessary because the nature of the proposed development, the existence of surrounding incompatible development, or other factors unique to the property which make strict compliance infeasible.

(H) Internal Sidewalk Network

- (1) Unless no buildable area exist on one side, a development must provide a sidewalk along each side of an internal circulation route.
 - (2) Where required, a sidewalk must comply with the requirements for a public sidewalk in Article 23-9E (Driveway, Sidewalk, Urban Trail, and Right-of-Way Construction).
- (I) **Building Placement.** A Building shall be oriented along an internal circulation route or the adjacent public roadway and shall comply with the applicable placement standards as established in Article 23-4D (Specific to Zones).
- (J) **Off-Street Parking.** Off-street parking may not be located between the internal circulation route and the corresponding street-facing facade line.

(K) On-Street Parking.

- (1) Except as otherwise provided, on-street parallel, head-in angle, and reverse angle parking are allowed on an internal circulation route, if

- (a) The parking complies with fire access standards, and
- (b) When the internal circulation route is a public street, the parking complies with the Transportation Criteria Manual and the director of the Transportation Department approves it.
- (2) If the internal circulation route is intended to accommodate bicycles, head-in and angle parking is not permitted.
- (L) **Vehicular and Pedestrian Connections Between Sites**
 - (1) **Requirements.** A development shall comply with the requirements of this subsection:
 - (a) The development must connect to an existing private drive or public street on adjacent site using a private drive or public street connection or, if connections are not feasible, provide a stub-out; and
 - (b) If the property line is adjacent to a public street, the development must provide direct pedestrian and bicycle access from the public street that is adjacent to the property line to a customer entrance. A pedestrian or bicycle access point shall comply with any applicable requirements and must be fully accessible during operating hours.
 - (2) **Additional Measures to Improve Connectivity.**
 - (a) Except as otherwise provided, a site must incorporate at least two of the options in Table 23-4C-1020(A).
 - (b) If surface parking equals more than 125 percent of the parking required by the applicable zone standard, the site must incorporate at least three of the options in Table 23-4C-1020(A).

Table 23-4C-1020(A) Additional Measures to Improve Connectivity

Option	Description/Comments
Pedestrian and Bicycle Access and Facilities	
Provide connection to adjacent residential development.	Provide connection to the property line, and to an existing sidewalk if one is present on the adjacent site. A development complies with this option when includes a sidewalk that connects the project site to an adjacent residential development and that runs along a public roadway where no sidewalk currently exists or where the existing sidewalk does not meet the width standards in this section.
Provide connections from adjacent parkland, trail or sidewalk.	Provide connection and access to the building entrance from the system located on parkland that is adjacent to the site. The access points must comply with applicable requirements and be fully accessible during operating hours.

Provide easement for Multi-Use Trail.	Provide a public access easement for the construction of a multi-use trail that connects to an existing of proposed trail described in the City of Austin Trails Master Plan, Austin Parks and Recreation Long-Range Plan, Sidewalk Master Plan or Bicycle Master Plan. Requires approval of the Public Works Director.
Provide shower and locker facilities for employees and increase required bicycle parking by 10%.	Enhance physical fitness opportunities and multi-modal connectivity.
Provide secure indoor bicycle storage in building or parking structure.	
Construct a sidewalk along a public street frontage.	Exceed applicable sidewalk standards.
Limit curb cuts.	
Heat Island Effect Reduction	
Provide shaded sidewalks along all building facades that are visible from the public right-of-way.	
Provide solar power shading devices in parking lots.	
Provide at least 10% of parking underground or within a parking structure.	
Other	
Incorporate a transit stop into the project.	
Locate internal utility lines in drive aisles or Internal Circulation Routes, rather than under parking areas.	

23-4C-1030 Common Open Space

- (A) **Purpose.** This section establishes requirements for common open spaces, which serve to organize large site development, shape the relationship between different land uses, and provide focal points and anchors for pedestrian activity. Common open spaces serve similar purposes as civic open space and parkland dedication. The requirements in this section complement requirements established for civic open space and parkland dedication.
- (B) **Amenity Required.** A site that is one acre or more shall provide common open space that complies with the requirements established in Table 23-4C-1030(A) Open Space and Amenities). A site partially complies with this section, if
- (1) The site provides civic open space that complies with Division 23-4C-2 (Civic Open Space); or
 - (2) The land dedicated in a recreation easement to the City for parkland dedication complies with Article 23-3B (Parkland Dedication).

Table 23-4C-1030(A) Open Space and Amenities

Amenity Type	Minimum Depth	Minimum Width	Total Area (min.)	Additional Requirements
Natural and undeveloped common open space	—	—	—	For use by residents, employees, and/or visitors for either active or passive recreation.
Landscape area	20 ft	20 ft	650 sf	Landscape area must be other than the area required by Division 23-4E-4 (Landscape); Must include pedestrian amenities.
Patio or plaza with outdoor seating areas	20 ft	20 ft	650 sf	Must include fully or partially shaded spaces with seating. Must be patio, plaza, or seating other than as required to comply with Subsection (C) (3).
Play area suitable for children under 9	20 ft	20 ft	650 sf	Must comply with Consumer Product Safety Commission guidelines for playgrounds, ASTM International standards, impediments (e.g., fencing, landscaping) between vehicular drives and activity areas.
Spaces that provide educational, historic, or cultural features, such as culinary, therapeutic or sculptural gardens; soundscapes, and interactive water features	—	—	—	—
Swimming pools, wading pools, or splash pads	—	—	—	—
Stormwater Control Measures	—	—	—	Must be designed as an amenity and approved by the director.
Multi-use trail	—	—	—	Must be or proposed in the City of Austin Trails Master Plan, Austin Parks and Recreation Long-Range Plan, Sidewalk Master Plan, or Bicycle Master Plan, or other trail connections as approved by the director.
Basketball, tennis, volleyball, or other sport courts or playing fields	—	—	—	—
A transit plaza incorporated within adjacent private property.	—	—	—	Must be adjacent to a Capital Metro Rapid stop or station
A combination of the above-listed amenities	—	—	—	—

(C) Location Criteria

- (1) To the maximum extent feasible, an applicant shall prioritize preserving significant natural and scenic resources for use as common open space.

- (2) The director may use all applicable plans, maps, and reports to determine whether significant resources exist on a proposed site that should be protected or limited in access. The following resources are preferred for use as common open space:
 - (a) a wetland;
 - (b) a floodplain;
 - (c) a rimrock;
 - (d) a lakes, river, or stream riparian corridor;
 - (e) a tree preservation area;
 - (f) a karst area;
 - (g) a cultural or historically significant structure, landscape, feature, or place; and
 - (h) an agricultural land that is used to cultivate local produce.
 - (3) If a trail, park, or other public space exists or is proposed in the City of Austin Trails Master Plan, Austin Parks and Recreation Long-Range Plan, Sidewalk Master Plan, or Bicycle Plan within or adjacent to the site to be developed, the common open space must be located to adjoin, extend, and enlarge the existing or proposed trail, park, or other open area. The director may require a public access easement to ensure public access to these facilities.
 - (4) If a BRT station is adjacent to the site to be developed, a portion of the common open space must, to the maximum extent feasible, be located to adjoin, extend, and enlarge the existing or permitted station.
 - (5) A site that is located outside of the Downtown Core (DC) zones and is more than one acre, must provide at least 150 square feet, plus an additional 100 square feet for, each acre of open space. The amount of open space required may not to exceed 1,000 square feet.
- (D) **Areas Not Credited.** The following areas are not common open space:
- (1) an area within a required street setback;
 - (2) a public or private street or right of way;
 - (3) an area used for off-street parking;
 - (4) an area used for loading;
 - (5) a driveway;
 - (6) a service area; and
 - (7) a stormwater control measures , unless the director approves the measure as a publicly available amenity.
- (E) **Design Criteria.** An area used for common open space shall comply the requirements of this subsection:
- (1) Unless the land includes sensitive natural resources, a common open space area must be readily accessible and usable.
 - (2) A common open space area must be compact and contiguous unless the common open space is used as a continuation of an adjacent or adjoining trail, connection to

a transit station, or specific or unique topographic features that require a different configuration.

- (3) The surface of the common open space must be suitable for outdoor activities, such as lawn or asphalt for designated recreation areas.
 - (4) Not more than 30 percent of the required common open space may be located on a roof, balcony, or other area above ground level, except as otherwise provided in this section. Required common open space cannot include areas occupied by mechanical equipment or structures not associated with designated recreation areas.
 - (5) Up to 50 percent of the required common open space may be located on a roof, balcony, or other area above ground level, if a minimum of 50 percent of the common open space is located on the roof, balcony, or other area above ground level is designed as a vegetated or green roof.
 - (6) If the adjacent property is zoned residential house scale, common open space on a roof, balcony, or other area above ground level shall be screened from the view of the adjacent property and shall comply with the standards in Division 23-4E-4 (Landscape).
 - (7) Up to 50 percent of ground level common open space may be covered by a fixed manmade obstruction, including a roof, balcony, or building projection.
 - (8) Common open space that is located above ground level may be covered if, at least one exterior side is open and unobstructed. A side is not obstructed if railings or balustrades are installed.
- (F) **Maintenance.** An owner of the development shall maintain a common open space area that is associated with the development.

23-4C-1040 Civic Open Space

(A) General

- (1) An applicant for a site plan or subdivision must designate civic open space that complies with the requirements of Division 23-4C-2 (Civic Open Space).
- (2) Civic open space shall comply with the design standards established in Division 23-4C-2 (Civic Open Space).
- (3) An exemption described in this Section does not exempt the development from any applicable parkland dedication required by Article 23-3B (Parkland Dedication).

(B) Civic Open Space Amounts and Locations

- (1) Land dedicated to the City to meet the applicable parkland dedication requirements in Article 23-3B (Parkland Dedication) may contribute to satisfying the requirements of this section.

#27, 31

23-4C-1040: Civic Open Space

PC Motion #27

In Section 23-4C-1010, create (B)(1) and (2) instead of (C) and (D), add "and that have a zone that requires it", and strike "~~four acres~~" and replace with "eight acres."

In Section 23-4C-1040(B)(3), replace "~~eight acres~~" with "twelve acres."

PC Motion #31

Replace language in Section 23-4C-1040(B)(4) with:

An applicant shall locate each residential lot within:

- (a) one-quarter mile of a safe pedestrian travel distance from existing or proposed civic open space if the development is located within the urban core; and
- (b) a half mile of a safe pedestrian travel distance from existing or proposed civic open space if the development is located outside of the urban core

Add a definition of "safe pedestrian travel."

23-4C-1040: Civic Open Space

PC Motion #27

In Section 23-4C-1010, create (B)(1) and (2) instead of (C) and (D), add "and that have a zone that requires it", and strike "~~four acres~~" and replace with "eight acres."

In Section 23-4C-1040(B)(3), replace "~~eight acres~~" with "twelve acres."

PC Motion #31

Replace language in Section 23-4C-1040(B)(4) with:

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- (b) a half mile of a safe pedestrian travel distance from existing or proposed civic open space if the development is located outside of the urban core

Add a definition of "safe pedestrian travel."

- (2) Except as provided in Subsection (B)(3), an applicant for a site plan or subdivision shall designate at least 10 percent of the net development acreage as civic open space. The net development acreage does not include street rights-of-way.
- (3) An application for a site plan or subdivision that is less than eight acres and is located within one-quarter mile of an existing park that is at least one acre and is accessible to the public is not required to provide open space.
- (4) An applicant shall locate each residential lot within:
 - (a) A quarter mile of an existing proposed civic open space if the development is located within the urban core; and
 - (b) A half mile of an existing or proposed civic open space if the development is located outside of the urban core.
- (5) For a site that is more than 15 acres, civic open space shall be distributed throughout the site and each civic open space shall be at least a quarter in size. See Figure 23-4C-1040(1).



Figure 23-4C-1040(1) Distributing civic open spaces throughout the community ensures that all residents have access to an open space within walking distance of their homes.

- (C) **Public Access and Visibility.** Public access and visibility must be maintained through the use of:
 - (1) Single-loaded frontage streets where development is on one side and open space on the other;
 - (2) A multi-use trail that is publicly accessible to bikes and pedestrians; or
 - (3) A method that provides similar public access and visibility of the open space that is appropriate in the zone and use of the space.
- (D) **Ownership and Maintenance**
 - (1) An area designated as civic open space must remain civic open space through one or more of the following options:

- (a) Establishing an entity that is responsible for managing and maintaining the area for its intended purpose;
 - (b) Conveyance of the land to a property owners' or homeowners' association that is responsible for managing and maintaining it for its intended purposes;
 - (c) Conveyance of the land to a third party beneficiary, such as a nonprofit environmental or civic organization, that is organized for, capable of, and willing to accept responsibility for managing and maintaining the land for its intended purposes; or
 - (d) Dedication of the land to the City or other appropriate governmental entity that is organized for, capable of, and willing to accept responsibility for managing and maintaining the land for its intended purposes.
- (2) If the civic open space is conveyed to a third party beneficiary, such as a nonprofit environmental or civic organization, then the conveyance must include deed restrictions that:
 - (a) govern the use, management, and maintenance of the civic open space;
 - (b) run with the land in perpetuity; and
 - (c) include any other provisions the City Attorney deems necessary and appropriate to fulfill the requirements of this section.
- (3) If the civic open space is privately owned, then deed restrictions, covenants, or other legal instruments related to private ownership must ensure the civic open space will be managed and maintained for its intended purposes.

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Division 23-4C-2: Civic Open Space

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23-4C-2010 Purpose

This division sets the requirements for a wide range of civic open space types that are appropriate for the City.

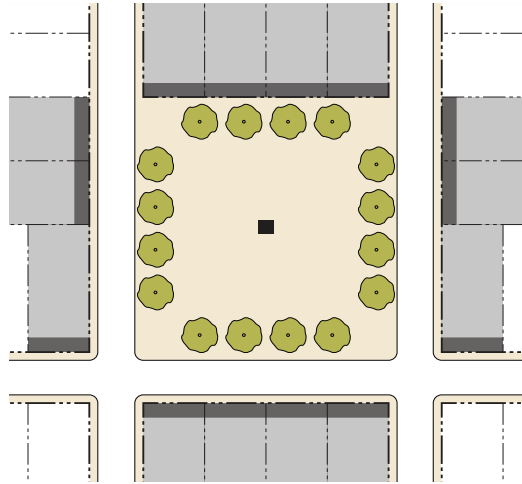
23-4C-2020 Applicability and Conflict

- (A) This division applies to all civic open spaces.
- (B) A required civic open space shall comply with the requirements in this division, Article 23-4D (Specific to Zones) and Division 23-4C-1 (Large Site Requirements).
- (C) The requirements on this division shall be implemented in a manner that allows a development to comply with both the requirements for civic open space and parkland dedication.
- (D) Civic open space that complies with this division may be used to satisfy Section 23-4C-1030 (Common Open Space) if the civic open space is publicly accessible.
- (E) The images in Sections 23-4C-2060 to 23-4C-2160 are illustrative, not regulatory.

23-4C-2030 Civic Open Space Design

(A) Building Frontage

- (1) The facade on a lot attached to or across a thoroughfare from a civic open space must be designed so that primary entrances and the primary facade must front onto the civic space for a minimum of three quarters of the open space perimeter, in combination with the allowed frontage.



Civic Open Space Diagram showing building front in dark grey.

Key:  = front

(B) Accessory Structure Standards.

- (1) An accessory structure within a civic open space, including a restroom, an open-air pavilion, a gazebo, a picnic shelter, or an outdoor theater is not subject to the physical requirements of the Building Form Standards in Article 23-4D (Specific to Zones).
- (2) An accessory structure described in Paragraph (1) shall be designed and furnished in a manner that is consistent with the character of the zoning district in which the accessory structure is located. The director may require an accessory structure to maintain building setbacks, frontage, massing, and character similar to adjacent developments.

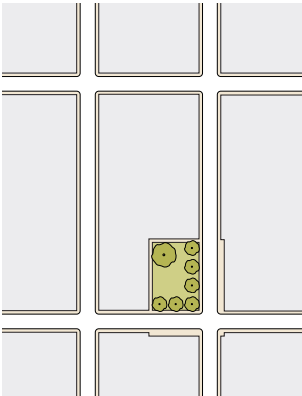
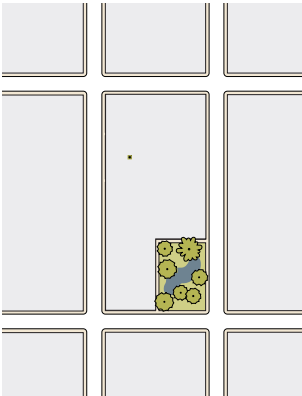
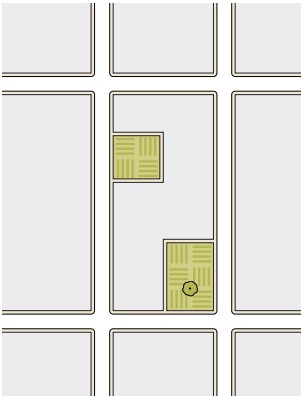
23-4C-2040 Civic Open Space Types Overview

- (A) This division provide the zones with a diverse palette of parks and other publicly accessible civic open spaces that are essential components of walkable urban environments.
- (B) Table 23-4C-2040(A) (Civic Open Space Types Overview) describes the types of civic open spaces. Nature space, community garden and storm water amenity, may be incorporated into any of the other civic open space types or stand alone.

Table 23-4C-2040(A) Civic Open Space Types Overview

Neighborhood Park	Greenbelt	Stormwater Amenity	Linear Park
Medium-scale public open space that provides basic recreational opportunities close to home.	Natural corridor that often follows a river, creek, ridgeline, valley, or other linear public open space.	Large public open space that accommodates required water quality and/or detention ponds with trails and other natural recreation amenities.	Linear space for community gathering and strolling for nearby residents and employees.
Green	Square	Plaza	Pocket Plaza/Paseo
Public open space available for civic purposes, commercial activity, informal recreation, and other informal uses.	Public open space available for civic purposes, commercial activity, recreation, and other informal uses.	Public open space that offers abundant opportunities for civic gathering.	Small-scale public open space that serves as an impromptu gathering place for civic, social, and commercial purposes.

Table 23-4C-2040(A) Civic Open Space Types Overview (continued)

Pocket Park	Nature Space	Community Garden
		
Small-scale public open space intended to provide recreational opportunities where (publicly accessible/park) space is limited.	An open space where children of all ages and abilities and adults play and learn by engaging with diverse natural elements, materials, and organisms.	A limited open space providing garden plots to nearby residents for small-scale cultivation of plants or trees that produce food.

23-4C-2050 Civic Open Space Requirements

#34, 35

- (A) **General Character.** The character of a civic open space shall comply with one of the design standards described in this Subsection.
 - (1) **Naturalistic Design.** A civic open space that is composed in a natural manner with no formal arrangement of elements.
 - (2) **Formal Design.** A civic open space that is composed in a more rigid layout that follows geometric forms and has trees and other elements arranged in formal patterns.
 - (3) **Hybrid Design.** A civic open space that is composed to have a mix of naturalistic and formal design characteristics.
- (B) **Size and Location.** A civic open space shall comply with the size, the orientation of the space to road and building frontage, and impervious cover limits established in this division.
- (C) **Typical Uses.** A civic open space may include one or more of the uses or facilities described in this division. The director may approve a use of facility that is not described in this division if the use or facility is consistent with the purpose of civic open space.
- (D) **Parking.** The director shall require a specific number of parking spaces for a civic open space that is more than five acres.
- (E) **Shade.** The design shall make shade integral to the civic open space.

23-4C-2050: Civic Open Space Requirements

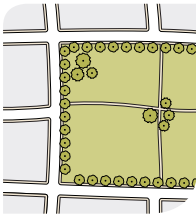
PC Motion #34

Strike Section 23-4C-2050(D).

PC Motion #35

Revise language in 23-4C-2050(E) to: Where appropriate for the nature of the Civic Open Space, the design shall make shade an integral feature for people utilizing the civic space.

23-4C-2060 Neighborhood Park

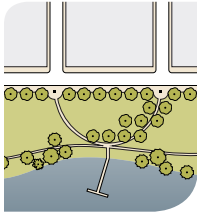


General Note: Images on this page are illustrative, not regulatory.

- (A) Description. A neighborhood park is a medium-scale open space that provides informal recreational opportunities near residential development. It is accessible by foot or bicycle; and it reflects to demographic and cultural characteristics of the neighborhood. This type of open space should be located in the center of a single neighborhood or in close proximity to a trail system or elementary school.
- (B) General Character
 - (1) A neighborhood park qualifies as a naturalistic or hybrid design civic open space.
 - (2) The landscape treatment varies from traditional grass and trees to more natural areas with native plants, wildflowers, and less intensive maintenance techniques.
 - (3) The facilities may include:
 - (a) Open play areas;
 - (b) Open shelters with picnic tables;
 - (c) Playgrounds;
 - (d) Basketball; or
 - (e) Tennis courts
- (C) Typical Uses. A neighborhood park may be used for informal recreation, group gathering, or nature play.
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2060(A) (Size and Location).

Table 23-4C-2060(A) Size and Location	
Size	2–30 acres
Location	Within 1 mile of residences
Perimeter along Street	50% (min.)
Impervious Cover	50% (max.)

23-4C-2070 Greenbelt



General Note: Images on this page are illustrative, not regulatory.

- (A) Description. A greenbelt is a natural corridor that often follows a river, creek, ridgeline, valley, or other linear public open space. It can serve multiple functions, such as hike and bike trails, a linear park system, a wildlife corridor, an area for flood control, a tool to preserve water quality, or a bicycle and pedestrian route.
- (B) General Character
 - (1) A greenbelt qualifies as a naturalistic design civic open space.
 - (2) It functions as multi-use trail.
- (C) Typical Uses. A greenbelt may be used for informal recreation, group gathering, trailheads, or nature play.
- (D) The size, perimeter along a street, and impervious cover are described in Table 23-4C-2070(A) (Size and Location).

Table 23-4C-2070(A) Size and Location

Length	1 mile (min.)
Width	30' min.; 60' avg.
Perimeter along Street	25% (min.)
Impervious Cover	10% (max.)

23-4C-2080 Stormwater Amenity

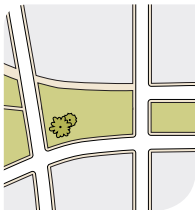


General Note: Images on this page are illustrative, not regulatory.

- (A) Description. A stormwater amenity is a civic open space that accommodates both recreational amenities and required stormwater controls, including flood detention and green stormwater infrastructure such as rain gardens. The area is designed to be attractive and open to public view.
- (B) General Character
 - (1) A stormwater amenity qualifies as a naturalistic, formal, and hybrid design civic open space.
 - (2) The landscape treatment varies from plantings to more natural areas with native plants and wildflowers.
 - (3) The design limits the use of hard edges.
 - (4) A recreational trail or sidewalk connects to nearby pedestrian sidewalks.
 - (5) A stormwater amenity shall comply with the Environmental Criteria Manual
- (C) Typical Uses. A stormwater amenity may be used for informal recreation, trails, and overlooks but is not used for a dog park or organized sports.
- (D) The pedestrian access and impervious cover are described in Table 23-4C-2080(A) (Size and Location).

Table 23-4C-2080(A) Size and Location	
Pedestrian Access	50% of perimeter (min.)
Impervious Cover	10% (max.) unless approved by the Planning Director

23-4C-2090 **Linear Park**

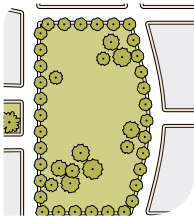


General Note: Images on this page are illustrative, not regulatory.

- (A) Description. Linear space for community gathering and strolling defined by the tree-lined streets and nearby buildings that front the park. Due to their narrow dimensions, linear parks will be for informal use. Linear parks can serve an important role as a green connector between destinations.
- (B) General Character
 - (1) Formal or hybrid design.
 - (2) Hardscape path. Spatially defined by buildings and tree-lined streets.
 - (3) Shaded. No fencing.
- (C) Typical Uses. Informal recreation; strolling, walking, running, and biking; casual seating; art exhibits.
- (D) The size, location, and impervious cover are described in Table 23-4C-2090(A) (Size and Location).

Table 23-4C-2090(A) Size and Location	
Width	60' (min.)
Impervious Cover	30% (max.)
Must front at least one street	

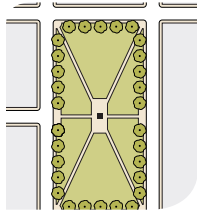
23-4C-2100 Green



General Note: Images on this page are illustrative, not regulatory.

- (A) Description. Public open space available for civic purposes, commercial activity, informal recreation, and other informal uses.
- (B) General Character
 - (1) Hybrid or naturalistic design.
 - (2) Spatially defined by street frontage, building frontages, and landscaping. Lawns, trees, and shrubs naturally disposed. Open shelters and paths formally disposed.
- (C) Typical Uses. Casual seating, Informal recreation, no organized sports, commercial and civic uses. Focus on informal play, grass games and picnicking, and community gathering.
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2100(A) (Size and Location).

Table 23-4C-2100(A) Size and Location	
Size	0.25-3 acres
Width	25' (min.)
Impervious Cover	20% (max.)
Must front at least one street	

23-4C-2110 Square

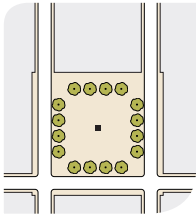
General Note: Images on this page are illustrative, not regulatory.

- (A) Description. Public open space available for civic purposes, commercial activity, informal recreation, and other informal uses.
- (B) General Character
 - (1) Formal or hybrid design.
 - (2) Spatially defined by buildings and tree-lined streets. Open shelters, paths, lawns, and trees formally arranged.
 - (3) Sidewalks and plantings at all edges.
 - (4) Abundant seating opportunities.
- (C) Typical Uses. Informal recreation; no organized sports; community gathering; occasional commercial and civic uses
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2110(A) (Size and Location).

Table 23-4C-2110(A) Size and Location

Size	0.25–3 acres
Width	50' (min.)
Impervious Cover	40% (max.)
Perimeter Frontage on Public Right-of-way	75% (min.)
Located at important intersections	

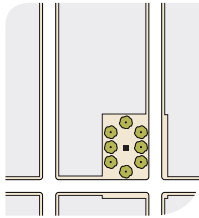
23-4C-2120 Plaza



General Note: Images on this page are illustrative, not regulatory.

- (A) Description. Public open space that offers abundant opportunities for civic gathering. Adds to the vibrancy of streets and transit stops within the more urban zones.
- (B) General Character
 - (1) Formal design.
 - (2) Spatially defined by building frontages. A balance of hardscape and planting. Trees important for shade.
- (C) Typical Uses. Commercial and civic uses; formal and casual seating; tables and chairs for outdoor dining; retail and food kiosks
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2120(A) (Size and Location).

Table 23-4C-2120(A) Size and Location	
Size	0.1–1 acre
Width	30' (min.)
Impervious Cover	60% (max.)
Perimeter Frontage on Public Right-of-way	30% (min.)
Located at important intersections, at vista termini, or at entrances to public/civic buildings.	

23-4C-2130 Pocket Plaza/Paseo

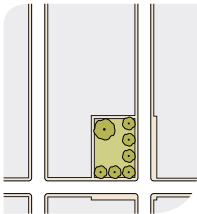
General Note: Images on this page are illustrative, not regulatory.

- (A) Description. Small-scale public open space that serves as an impromptu gathering place for civic, social, and commercial purposes. Designed as a well-defined area of refuge separate from the public sidewalk.
- (B) General Character
 - (1) Formal design.
 - (2) Spatially defined by the building configuration. Defined seating areas. Refuge from the public sidewalk.
- (C) Typical Uses. Civic and commercial uses; formal and casual seating
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2130(A) (Size and Location).

Table 23-4C-2130(A) Size and Location

Size	400 sf (min.)
Width	20' (min.)
Impervious Cover	60% (max.)
Perimeter Frontage on Public Right-of-way	25% (min.)
Located at important intersections, at vista termini, or at entrances to public/civic buildings	

23-4C-2140 Pocket Park

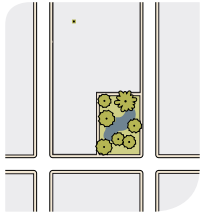


General Note: Images on this page are illustrative, not regulatory.

- (A) Description. These are small-scale public open spaces providing recreational opportunities with limited publicly accessible space. They are commonly located in areas with increased population densities. They are often located between buildings and developments, on single vacant lots, and on small irregular pieces of land.
- (B) General Character
 - (1) Formal or hybrid design.
 - (2) Range of character can be for recreational use or aesthetic enjoyment. Low maintenance is essential.
- (C) Typical Uses. Commercial and civic uses; formal and casual seating; tables and chairs for outdoor dining; retail and food kiosks
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2140(A) (Size and Location).

Table 23-4C-2140(A) Size and Location	
Size	0.25–1.99 acres
Impervious Cover	50% (max.)
Within a few blocks or up to 1/4 mile of residences	

23-4C-2150 Nature Space



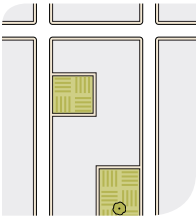
General Note: Images on this page are illustrative, not regulatory.

- (A) Description. A designated, managed location in an existing or modified outdoor environment where children of all ages and abilities and adults play and learn by engaging with and manipulating diverse natural elements, materials, organisms, and habitats, through sensory, fine motor, and gross motor experiences. Meeting the needs and pleasures of the adult and child, with much to explore, throughout all the seasons.
- (B) General Character
- (1) Naturalistic design.
 - (2) Features may include: Seating (contemplative and/or learning areas), Nature Walking Trails, Water Infiltration features (bioswales, rainwater gardens, dry creeks), Habitats (pollinator meadows, vegetable gardens), nature play areas (boulders & logs, climbing stumps & play hills).
- (C) Typical Uses. Outdoor health, learning, exploration and free play.
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2150(A) (Size and Location).

Table 23-4C-2150(A) Size and Location

Size	300 sf (min.)
Impervious Cover	20% (max.)
Residential districts, streets, urban trails, greenways, parks, childcare centers, schools	

23-4C-2160 Community Garden



General Note: Images on this page are illustrative, not regulatory.

- (A) Description. An open space providing garden plots to nearby residents for small-scale cultivation. Community gardens may be fenced to protect edible plants from wildlife and may include a small accessory structure for storage. Community gardens may be included within all other open space types.
- (B) General Character
 - (1) Formal or hybrid design.
 - (2) Plant beds (in-ground or raised). Accessory structure < 2,500 sf. Decorative fencing, when fencing present. Spatially defined by adjacent buildings and street trees. Irrigation. Access for supply deliveries.
- (C) Typical Uses. Food production, paths, access for delivery, and small scale non-commercial composting compliant with city, county, state, and federal authorizations.
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2160(A) (Size and Location).

Table 23-4C-2160(A) Size and Location	
Size	No Requirements
Impervious Cover	10% (max.)

PC Motion #38

List "Live Music Venue" as a separate use that is permitted in all the same use tables with the same permission standards as "Performance Venue/ Theater," but without the requirements for alcohol sales.

Define in Definitions.

PC Motion #39

Whatever the compatibility trigger is, stepbacks start at the triggering property's lot line.

Whatever the compatibility trigger is, setbacks start at the triggering property's lot line (regardless of an alley).

PC Motion #40

Between 25-50 feet from the triggering lot line: 35 foot height limit

50-100 feet: 45 foot height limit

100-150 feet: 65 foot height limit

150-225 feet: 75 foot height limit

225-300 feet: 90 foot height limit

Full height at 300 feet

Affordable bonuses are exempt at 100 feet

PC Motion #41

Change Cooperative Housing to Permitted in MH, MS1A, MU3B, MU5.

Change Cooperative Housing to Permitted in R3B-C, R4C, R4A-C, RM1A-B;

PC Motion #42

Daycares with less than 7 children permitted in R zones,

Daycares with 7-20 children require a MUP in all R zones,

Daycares with 7-20 children permitted in all RM zones;

Commercial Daycares require a CUP in R zones; Commercial Daycares in RM zones stay the same as D3.

PC Motion #43

Update each district to max height of "35 feet from top of slab to top of roof" and "slab height is limited to a maximum of 5' above finished grade and a maximum of 12" above highest finished grade." Staff will continue to work to clarify and correct the height with the intent stated.

PC Motion #44

Delete Frontyard Impervious Cover Regulation in all R Zones.

PC Motion #45

Allow pools and fountains in required yards without new setback or restrictions as currently allowed.

PC Motion #46

Remove articulation from all R zones.

PC Motion #47

Add a maximum FAR of 0.3 or 1800 sf to all R zones;

Add a maximum FAR of 0.3 or 1150 sf for single-family attached
(the intent is to reduce the available FAR to single-family by 25%)

Intent is to reduce by 0.1 FAR under future motions.

PC Motion #50

Require a CUP for all Bars/ Nightclubs (Level 2 only) within 200 feet of a Residential zone rather than permitting by-right. Beyond 200 feet remains permitted by-right.

Add specific language in Specific to Use section for Bars and Nightclubs

Allow any non-permitted alcohol uses in Draft 3 (Level 1 or Level 2) as a CUP within the MS zones, except MS1A and MS2A.

PC Motion #52

For Residential Zones that allow an ADU Preservation Incentive, change the name to ADU "Streetscale Incentive," and change the word "~~preserved~~" to "conserved." Add the definition of the word "conserved" to the definitions section.

PC Motion #53

Apply the Street Scale Incentive (formerly the Preservation Incentive) to all Residential zones.

PC Motion #55

Create comparable R zones in R1 and R2 that maintain the 5750 sf minimum lot size and a minimum 50' lot width. Number of zones to be created is to be determined by staff.

PC Motion #59

Add clarifying/ symbolic language to the Use Tables regarding the allowance and permitted timeframes of STRs.

PC Motion #60

Add a "Small Lot Single-Family Use" as a permitted use in R2D and R2E with the following development standards. R2C remains the same.

min. lot size: 2500 sf.

max lot size: 4999sf

min. lot width: 36'

Building Size (max) for all Small Lot uses: the greater of .4 FAR or 1500 sf

Building Placement add Small Lot Setbacks: Front 15', Side St. 10', Side 3.5', Rear 10'.

Building Form (1) Building Articulation New Construction add "Building Articulation is not required for Small Lot uses."

Impervious Cover add "(2) Small Lot Impervious Cover 65% max, 55% building cover max."

PC Motion #61

In all R Zones, set the required lot size for an ADU to the minimum lot size for a single-family use. Retain all affordability requirements.

PC Motion #63

In the Parking Tables in all zones, add clarifying notes to the term "Other Allowed Uses" that reference back to the Permitted Use Tables.

PC Motion #64

Make one new zone (staff to determine which zoning base [R, RM, etc.]) for the Small Lot Single-Family Use with the following development standards:

min. lot size: 2500 sf.

max lot size: 4999sf

min. lot width: 25'

Building Size (max) for all Small Lot uses: the greater of .4 FAR or 1500 sf

Building Placement add Small Lot Setbacks: Front 15', Side St. 10', Side 3.5' or 0 when adjacent to Small Lot Uses, Rear 10'.

Building Form (1) Building Articulation New Construction add "Building Articulation is not required for Small Lot uses."

Impervious Cover add "(2) Small Lot Impervious Cover 65% max, 55% building cover max

Staff to prepare a new zone that only permits the single use.

PC Motion #66

Add language to applicable zones regarding sideyard setbacks exemptions for Small Lot Single Family Attached, Single Family Attached, and Townhouse.

PC Motion #67

Add a bonus of "+150sf for each three bedroom unit within 500' of public school" for Single-Family and Duplex uses in R2-R4 zones where McMansion applies.

PC Motion #69

Staff to find a way to alter the development standards to make R4 more feasible and recommend those changes to Council, particularly impervious cover.

PC Motion #70

Amend the height of all accessory structures to 15 feet instead of 12 feet, as applicable.

PC Motion #74

Create a new zone (RM1C) which has the same uses as R2C, but with a permitted density of 14 units per acre maximum.

0.4 FAR limit for the site

R2C height limits, building form (mcmansion) and setback tables,

1 space per unit with additional proposed parking matrix reductions,

Add Note to Table A: minimum 10' separation between buildings. No compatibility setbacks.

No multi-unit buildings

Staff to review proposed zone to ensure it does not have a negative impact on Density Bonus program.

PC Motion #75

Increase units per acre by 20% in all multi-unit zones for base and bonus units and always round the numbers up.

PC Motion #76

Add Parking Facility as a permitted use with a CUP in RM2 zones and greater when adjacent to a Main Street or Mixed Use zone with the following design requirements to be stated in Specific to Use:

(A) Screening: All areas used for parking, storage, waste receptacles or mechanical equipment shall be screened from a triggering property. Such screening may be a fence, berm or vegetation and shall be maintained by the property owner. Fences shall not exceed six feet in height.

(B) Lighting: Exterior lighting shall be hooded or shielded so that it is not visible from a triggering property.

(C) Noise: The noise level of mechanical equipment shall not exceed 70 db at the property

line of a triggering property.

(D) Waste: Waste receptacles, including dumpsters, shall not be located within 50 feet of a triggering property. The City shall review and approve the location of and access to each waste receptacle. Collection of such receptacles shall be prohibited between 10pm and 7am.

(E) From a parking structure facing and located within 100 feet of a triggering property:

- (1) Vehicle headlights shall not be directly visible, and shall be shielded from view
- (2) Parked vehicles shall be screened from the view of any public right of way; and
- (3) All interior lighting shall be screened from the view of a triggering property.

(F) No vehicle entrances or exits from parking accessible to a MS or MU property may be located within 100 feet of a triggering property.

PC Motion #80

Increase the bonus height maximums in Main Street zones as follows:

MS2A, MS2B, MS2C: 45' to 65'

MS3A, MS3B: 60' to 80', 120'

Increase the bonus height maximums in Mixed Use zones as follows:

MU1C, MU1D, MU2A: 45' to 65'

MU2B, MU3A, MU3B: 60' to 80'

MU4A, MU4B: 60' to 80', 120'

MU5A: 100'

Increase base heights:

MS1A, MS1B: 35' to 40'

MU1A, MU1B: 32' to 40'

PC Motion #83

For MS1A, MS1B, MU1A, and MU1B the following development standards be altered:

Within 30 feet from a rear triggering property, height be limited to 1 stories

No parking deck on top

No deck or patio for alcohol or food

Eliminate articulation (landscape buffer is still required)

Side setback of 10 feet

McMansion tent (as McMansion is applied in Draft 3) apply

PC Motion #84

Change all front yard setbacks from 5 feet to 0 feet in commercial zones (RM4A and up)

PC Motion #85

Require a CUP for all Adult Entertainment in all applicable zones

PC Motion #86

Increase heights in the CC zone to the following heights:

Replace CC40 with CC50; Replace CC60 with CC75; Replace CC80 with CC90.

replace CC40 with CC50 (50' overall max height); Replace CC60 with CC75 (75' overall max height); Replace CC80 with CC90 (90' overall max height)

Change CC40, CC60, CC80 FAR max to 5:1

Remove all minimum setbacks for all CC zones, and clarify reference to easements.

Revise CC zones to increase heights & FAR.

Set setbacks to 0 feet unless stated otherwise in 23-4D-9070

Allow exceptions for small sites downtown such as:

Create exception for <1/2 block sites. Either significantly reduce the % gross frontage requirement or change requirement to "net" frontage or only require one block face of the site to comply. Or remove requirement in CC base zone and allow for a district planning process to dictate which streets and which uses are appropriate. And reduce requirements for many building support spaces (AE vault, fire pump, etc.) that must be located directly on ROW.

Table G: For commercial buildings greater than or equal to one-half block width:

Except for building support spaces (including as Austin Energy vault, fire pump), entries must be oriented to the street and located at sidewalk level. No ramps or stairs allowed within public right- of-way or front setback

For commercial buildings less than one-half block width:

The primary entry must be oriented to the street and located at the sidewalk level.

PC Motion #89

In Section 23-4D-8110(F) insert and renumber: (F)(8) exceed the minimum landscaping requirements of the City Code.

In Section 23-4D-8110(G)(2)(c) Delete: ~~Uses green water quality controls as described in the Environmental Criteria Manual to treat at least 50 percent of the water quality volume required by this Title.~~

Direct Staff to find ways to differentiate Tier 1-T3 defining Tree superiority. Direct staff to find a way to require superior standards for Tier 1 and Tier 2 PUDs apart from standard code.

PC Motion #92

Where appropriate, add a note detailing that other state or local laws may prohibit alcohol within certain distances, and clarify where to find those specific alcohol distances.

PC Motion #93

Where applicable, amend the language to allow engaged porches to only be open on one side, instead of requiring two sides as is currently written.

PC Motion #99

Throughout the City (regardless of McMansion), set occupancy at the following standards:

Single Family: 6

Duplex: 3 + 3

Single Family + ADU: 6 + 2

Duplex + ADU: 3 + 3 + 2

ADU alone: 2

Direct Staff to recommend more where appropriate

PC Motion #105

Add Accessory Apartment as a permitted use in all R zones as shown in Sheih Exhibit 2 - Accessory Apartment.

PC Motion #109

Direct staff to remove the compatibility impacts to CC zoning in the Downtown area, particularly related to the two parcels zoned R2C-H near Judge's Hill and the property on the southern corner of 15th street with R zoning.

ZAP Motion #6

The proposed code increases drive-thru use throughout Austin, including areas already enjoying high density and where Neighborhood Plans do not allow drive-thrus.

ZAP Motion #10

CodeNEXT increases the number of zoning categories instead of decreasing them. The overall number increases from the current 39 categories to 58 categories. Residential categories increase from 16 to 25 with one zoning category, SF-3, placed into six categories. The number of commercial categories has increased from 23 to 34.

ZAP Motion #11

CodeNEXT's zones lack the progression in both sizes and uses that the Zoning and Platting Commission would expect to see in a well-organized code and are qualities that the current code contains. Currently General Office (GO) builds on Light Office (LO) zoning with an increase in uses and sizes, as do all commercial zones. By contrast, CodeNEXT introduces zoning categories that do not build on preceding categories but, instead, create a whole new set of allowed uses and dimensions. The Zoning and Platting Commission recommends that zoning categories be cumulative

ZAP Motion #12

Creating new categories of Main Street (MS) and Mixed Use (MU) categories complicate instead of streamline Austin's commercial code. These two zones are designed for similar mixed-uses

ZAP Motion #13

CodeNEXT continues to rely on current Chapter 25 zoning for some types of uses so Austin in the future will have two, not one, set of land development regulations to deal with. Many warehouses were allowed in Commercial Services (CS) with Conditional Overlays (CO). A new zoning category should be proposed for warehouses. Other uses that are currently slated to retain their Chapter 25 zoning should be assessed for conversion to a new category in the proposed code

ZAP Motion #26

CodeNEXT hurts Austin's ability to provide affordable housing in two ways. The first is by reducing the percentage of affordable units that must be provided in the Affordable Housing Bonus Program (AHBP) and the second is by providing increased by-right entitlements without imposing affordability requirements in return

ZAP Motion #27

CodeNEXT 23-E-1040(B)(2) states that the number of affordable units will be calculated based on a percentage of only the bonus units requested resulting in far fewer affordable units than those required by the city's Vertical Mixed Use (VMU) program. The VMU program requires the percentage of income restricted affordable units to be based on the total number of units in the project and that the Median Family Income (MFI) requirement is 60% to 80%. This VMU program was studied for feasibility and has provided income restricted units scattered around the city. The Zoning and Platting Commission recommends that current VMU affordability standards be used in CodeNEXT instead of the proposed AHBP standards.

ZAP Motion #28

CodeNEXT provides increased by-right entitlements with no public benefit. For example, the CodeNEXT draft 2 map typically zones CS-V properties MS3 with a height limit of 75'. This 15' height increase will likely reduce developers' incentive to participate in the AHBP. Given the limited options to create affordable housing, it makes no sense to give away development entitlements without affordability requirements. The Zoning and Platting Commission recommends that CodeNEXT ties any increases in entitlements (increased height, FAR, or density) to requirements to provide affordable housing. The Zoning and Platting Commission recommends that the city require a certain percent of all units to be multi-bedroom, to give low-income families with children housing priority, achieve deeper affordability by lowering MFI thresholds and adjust fees to be more in line with actual housing costs

ZAP Motion #29

To provide the maximum benefits, AHBP should be made available in as many zones as possible. For example, the AHBP should be available in all Main Street zones. Commercial properties with no housing should be allowed to participate in the AHBP by paying fee-in-lieu. To ensure compatibility, height and FAR should not increase in or near residential house form zones. Bonuses in these locations should be limited to increases in units

ZAP Motion #30

CodeNEXT eliminates requirements for affordable housing in the Planned Unit Development (PUD) Zone (23-4D-8120). The Zoning and Platting Commission recommends that all PUDs that receive increased entitlements or code modifications be required to provide on-site affordable housing (or fee-in-lieu to the AHBP for projects that don't provide housing)

ZAP Motion #31

The accessory dwelling units (ADUs) in CodeNEXT (and the current code since 2015) allow ADUs of 1,100 sq. ft. This size exceeds every major city in the US. In fact, 1,100 sq. ft. is the size of many houses in older neighborhoods. These houses permitted as large ADUs have recently been sold separately from the main house using a condo regime making clear that the large ADU is not an accessory to the main house. The Zoning and Platting Commission recommends that Austin reduce the allowed size of ADUs consistent with other cities and find other ways to encourage the use of this infill tool. ADUs should be allowed by right in all house form zones and CodeNEXT should allow detached, attached and garage ADUs, fast-track and eliminate permit fees for smaller ADUs (<500 sq. ft.) and income-restricted ADUs, and vary permitted floor area by lot size (600, 850, and 1,100 sq. ft.).

ZAP Motion #32

CodeNEXT proposes to drastically limit compatibility protections in the house form zones allowing an eight-story building to be just 100' from a single-family home. This short compatibility buffer is unprecedented in major US cities. Adequate compatibility standards are necessary to compensate for Austin's failure to follow sound transitional planning principles. The Zoning and Platting Commission recommends that house form zones (and not use) trigger compatibility. We recommend that current compatibility rules be reduced by about one-third, allowing 40' buildings 100 feet away, 60' high-rises 200 feet away; and 80' story high-rises 300 feet away from house form zones. Step back provisions should be included for RM1B, and MU1 (A-D). Step-backs should be based on the distance from triggering property line and not on the widths of roadways and alleys. The Zoning and Platting Commission recommends that in addition to height, massing and uses be included. CUPs must be required for uses that are inappropriate in the vicinity of house form zones (including those involving alcohol and extended hours of operation). Compatibility requirements should also ensure that out of scale massing (such as MU1C and MU1D zones) be prohibited within 300' of residential house form zones. In addition, other compatibility provisions such as driveway and parking placement, dumpster placement, mechanical equipment placement, etc. should be retained from the current code. ZAP recommends that side yard setbacks be evaluated In an effort to provide uniformity

HLC Motion #2

Encourage ADUs as a tool to retain older, historic-age residential buildings (50+ years) while increasing density. (a) Allow larger ADUs in the rear of older houses by right, with the condition of retaining and rehabilitating the historic-age house; or allow existing houses equal to or less than 1,375 square feet (25% of allowable ADU square footage) to be classified as ADUs while remaining at the front of the lot. The maximum allowable area for new construction should be within a set square footage or percentage of the lot size of existing house's area. (b) Allow rear additions to existing houses on cottage lots to be classified as ADUs as long as they maintain the roofline and width of the existing house. (c) Waive parking requirements for ADUs if the existing house is retained and rehabilitated.

HLC Motion #3

Maintain the historic street pattern. (a) Require new buildings to be set back at the median setback of the block, instead of the average of the adjacent neighboring buildings, as proposed in Draft 2. (b) Ensure that sidewalks, driveways, parking pads, and landscaping are compatible with historic development patterns.

HLC Motion #4

Preserve the built form of low-rise residential neighborhoods and commercial corridors via context-sensitive form-based zoning. (a) Limit height of front façade to the prevailing height of the neighborhood, with additional stories set back at least 15' from the front of the façade. (b) Require upper-story setbacks of 15' or 1/3 of the building length (whichever is greater) for new buildings and additions to existing buildings in older neighborhoods [could also be only for existing buildings 40+ years old].

HLC Motion #5

Discourage demolition of older commercial and residential buildings. (a) Charge an impact fee for demolition, with increased fees for demolition of contributing buildings within local and National Register historic districts. (b) Reduce or waive parking requirements if existing building form is retained (e.g., with 15' setback, roof form, and compatible primary façade.) (c) Grant additional height for commercial buildings with stepped-back addition if existing building is retained, as currently proposed for residential buildings. (d) Explore additional ways to incentivize retention of existing older buildings (e.g. TIF districts or PIDs, transfers of development rights, façade easements, design option points, and more).

Article 23-4D: Specific to Zones

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Division 23-4D-1: Purpose

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23-4D-1010 Purpose

This Division provides regulatory standards for all zones. These regulations address building form, land use, and other topics. Zones have been categorized into overall themes and grouped by similar intensities in order to best reflect the unique physical character of that place.

23-4D-1020 Overview

Zone Districts are categorized by common themes as follows:

- (A) **Residential House-Scale Zone Districts.** The Residential House-Scale zones are grouped by intensity of typical number of units from least intense to most intense. The Residential House-Scale zones are described in Division 23-4D-2 (Residential House-Scale Zones).
- (B) **Residential Multi-Unit Zone Districts.** The Residential Multi-Unit zones are generally grouped in order from shortest to tallest allowed height. This zone category covers a diverse set of zone districts that include 3 to 4 story tall detached buildings to multi-story residential buildings that occupy an entire block. The Residential Multi-Unit zones are described in Division 23-4D-3 (Residential Multi-Unit Zones).
- (C) **Mixed-Use Zone Districts.** The Mixed-Use zones are generally grouped in order from shortest to tallest allowed height. Zones allow a horizontal or vertical mix of uses along corridors and in nodes with increased walkability. The Mixed-Use zones are described in Division 23-4D-4 (Mixed-Use Zones).
- (D) **Main Street Zone Districts.** The Main Street zones are generally grouped in order from shortest to tallest allowed height. Zones require a vertical mix of uses along corridors and in nodes with increased walkability. The Main Street zones are described in Division 23-4D-5 (Main Street Zones).
- (E) **Regional Center Zone Districts.** The zone districts in this category are intended for use in areas identified in the comprehensive plan as regional centers of important jobs and housing. The Regional Center zones are described in Division 23-4D-6 (Regional Center Zones).
- (F) **Commercial and Industrial Zone Districts.** The Commercial and Industrial zones provide standards for development related to recreation, office and service, storage and warehousing of goods, the manufacturing of goods and other research related uses. Commercial and Industrial zones are described in Division 23-4D-7 (Commercial and Industrial Zones).

- (G) **Other Zone Districts.** The Other zones include zones for agriculture, airport related services, conservation lands, parks, publicly owned land, development reserves and planned unit developments. The Other zones are described in Division 23-4D-8 (Other Zones).
- (H) **Overlay Zones.** The Overlay zones are described in Division 23-4D-9 (Overlay Zones). The Overlay Zones provide additional standards or more specific standards to geographic areas of the city.

[PC Motion #57](#)

Table 23-4D-2030(B)

Table 23-4D-2150(A)

Table 23-4D-2160(A)

Table 23-4D-2170(A)

Table 23-4D-2180(A)

Allow a three units, attached or detached, as a residential use in the R3 zones. Exact definition and alterations to Use Tables to be determined by staff.

[PC Motion #72](#)

Table 23-4D-2190(A)

Table 23-4D-2200(A)

Table 23-4D-2210(A)

Increase the base standard units of Cottage Court in the R4 zones from

3 to 4 units

6 to 8 units

Division 23-4D-2: Residential House-Scale Zones

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23-4D-2010 Purpose

This division establishes the land use and building form requirements for property zoned residential house-scale. The requirements implement the Comprehensive Plan and are intended to ensure that proposed development is compatible with existing and future development on neighboring properties. Additionally, the requirements are intended to produce an environment of desirable character, consistent with the Comprehensive Plan and any applicable area plan.

23-4D-2020 Applicability

- (A) The requirements in this division apply to a site zoned within residential house scale zones.
- (B) The uses allowed in residential house scale zones are subject to the requirements of this division and any applicable regulations within Article 23-4E (Supplemental to Zones).

- (C) In addition to the requirements included within this division and Article 23-4E (Supplemental to Zones), a lot or use may also be subject to the following provisions of this Title:
- (1) Article 23-3C (Urban Forest Protection and Replenishment);
 - (2) Article 23-3D (Water Quality);
 - (3) Article 23-3E (Affordable Housing);
 - (4) Division 23-4E-2 (Outdoor Lighting);
 - (5) Division 23-4E-7 (Additional General Standards);
 - (6) Section 23-4E-8060 (Building Design);
 - (7) Chapter 23-8 (Signs); and
 - (8) Article 23-10E (Drainage).
- (D) The provisions identified in Subsection (C) may not be a complete list of requirements to a lot or use. Failure to include a specific provision in Subsection (C) or anywhere else in this division does not exempt the lot or use from complying with the provision.

23-4D-2030 **Allowed Land Uses and Permit Requirements**

(A) **Allowed Land Uses.**

- (1) The following tables establish the land uses that are allowed in each residential zone:
 - (a) Table (A) applies to: rural residential, Lake Austin, residential 1A, residential 1B, and residential 1C.
 - (b) Table (B) applies to: residential 2A, residential 2B, residential 2C, residential 2D and residential 2E.
 - (c) Table (C) applies to: residential 3A, residential 3B, residential 3C, residential 3D, residential 4A, residential 4B, and residential 4C.
- (2) Each land use listed is defined in Article 23-2M (Definitions and Measurements).
- (3) If a table identifies a permit requirement for the land use, then a property may not be used until the property owner or property operator obtains a permit.
- (4) If a land use is subject to additional requirements, the table identifies the section within Division 23-4E-6 (Specific to Use) that applies.
- (5) If a land use is marked with "N/A" or is not included in the table, it is not allowed in the zone.

Use Type	Specific to Use Requirements	LA	RR	R1A	R1B	R1C
(1) Residential						
Accessory Dwelling Unit - Residential	23-4E-6030	P	P	P	P	P
Bed and Breakfast	23-4E-6090	—	CUP	CUP	CUP	CUP
Home Occupations	23-4E-6200	P	P	P	P	P
Senior/Retirement Housing						
≤12	23-4E-6330	—	—	—	MUP	MUP
>12	23-4E-6330		—	—	—	—
Single-Family		P	P	P	P	P
Short-term Rental						
Types 1	23-4E-6340	P	P	P	P	P
Types 2	23-4E-6340	—	—	—	—	—
Types 3	23-4E-6340	—	—	—	—	—
(2) Residential Support						
No Residential Support uses allowed						
(3) Services						
Animal Service/Boarding						
Level 1		—	—	—	—	—
Level 2		—	—	—	—	—
Level 3		—	CUP	—	—	—
Day Care						
Small <7		CUP	P	P	P	P
Large 7 ≥ and ≤20		CUP	CUP	CUP	CUP	CUP
Commercial		CUP	—	—	—	—
(4) Office						
No Office uses allowed						

Key for Table 23-4D-2030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-2030(A) Allowed Uses in Residential House-Scale Zones LA–R1C (continued)						
Use Type	Specific to Use Requirements	LA	RR	R1A	R1B	R1C
(5) Civic and Public Assembly						
Library, Museum, or Public Art Gallery		—	CUP	CUP	CUP	CUP
Meeting Facility (public or private)		CUP	CUP	CUP	CUP	CUP
Public Safety Facility		CUP	CUP	CUP	CUP	CUP
Religious Assembly Facility		P	P	P	P	P
School						
Business, or Trade	23-4E-6320	—	—	—	—	—
College or University	23-4E-6320	CUP	CUP	CUP	CUP	CUP
Private Primary	23-4E-6320	CUP	CUP	CUP	CUP	CUP
Private Secondary	23-4E-6320	CUP	CUP	CUP	CUP	CUP
Public Primary	23-4E-6320	P	P	P	P	P
Public Secondary	23-4E-6320	P	P	P	P	P
(6) Restaurant and Bars						
No Restaurant and Bars uses allowed						
(7) Retail						
No Retail uses allowed						
(8) Entertainment and Recreation						
Recreation						
Indoor ≤ 5,000 sf	23-4E-6290	—	CUP	CUP	CUP	CUP
Indoor > 5,000 sf	23-4E-6290	—	CUP	CUP	CUP	CUP
Outdoor, Formal	23-4E-6290	P	CUP	CUP	CUP	CUP
Outdoor, Informal	23-4E-6290	P	P	P	P	P
Outdoor, Natural	23-4E-6290	P	P	P	P	P
(9) Industrial						
No Industrial uses allowed						

Key for Table 23-4D-2030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-2030(A) Allowed Uses in Residential House-Scale Zones LA–R1C (continued)						
Use Type	Specific to Use Requirements	LA	RR	R1A	R1B	R1C
(10) Agriculture						
Community Agriculture	23-4E-6120	P	P	P	P	P
Stables		—	CUP	—	—	—
(11) Automobile Related						
No Automobile Related uses allowed						
(12) Innovation and Technology						
No Innovation and Technology uses allowed						
(13) Other						
Accessory Uses	23-4E-6050	P	P	P	P	P
Communications	23-4E-6110	P	P	P	P	P
Utilities						
Local		P	P	P	P	P
Major		—	—	—	—	—
Telecommunications	23-4E-6370	P/CUP	P	P	P	P
Temporary Uses	23-4B-1050	TUP	TUP	TUP	TUP	TUP
Special Uses	23-4E-6350	CUP	CUP	CUP	CUP	CUP

Key for Table 23-4D-2030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-2030(B) Allowed Uses in Residential House-Scale Zones R2A–R2E						
Use Type	Specific to Use Requirements	R2A	R2B	R2C	R2D	R2E
(1) Residential						
Accessory Dwelling Unit - Residential	23-4E-6030	P	P	P	P	P
Bed and Breakfast	23-4E-6090	CUP	CUP	CUP	—	—
Cooperative Housing		—	—	—	—	—
Duplex	23-4E-6170	P	P	P	P	P
Home Occupations	23-4E-6200	P	P	P	P	P
Senior/Retirement Housing						
≤12	23-4E-6330	MUP	P	P	P	P
>12	23-4E-6330	—	—	—	—	—
Single-Family		P	P	P	P	P
Single-Family Attached		P	P	P	P	P
Short-term Rental						
Types 1	23-4E-6340	P	P	P	P	P
Types 2	23-4E-6340	—	—	—	—	—
Types 3	23-4E-6340	—	—	—	—	—
(2) Residential Support						
No Residential Support uses allowed						
(3) Services						
Day Care						
Small <7		P	P	P	P	P
Large 7 ≥ and ≤20		CUP	CUP	CUP	CUP	CUP
Commercial		—	CUP	CUP	CUP	CUP
(4) Office						
No Office uses allowed						

Key for Table 23-4D-2030(B)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-2030(B) Allowed Uses in Residential House-Scale Zones R2A–R2E (continued)						
Use Type	Specific to Use Requirements	R2A	R2B	R2C	R2D	R2E
(5) Civic and Public Assembly						
Library, Museum, or Public Art Gallery		CUP	CUP	CUP	CUP	CUP
Meeting Facility (public or private)		CUP	CUP	CUP	CUP	CUP
Public Safety Facility		CUP	CUP	CUP	CUP	CUP
Religious Assembly Facility		P	P	P	P	P
School						
Business, or Trade	23-4E-6320	—	—	—	—	—
College or University	23-4E-6320	CUP	CUP	CUP	CUP	CUP
Private Primary	23-4E-6320	CUP	CUP	CUP	CUP	CUP
Private Secondary	23-4E-6320	CUP	CUP	CUP	CUP	CUP
Public Primary	23-4E-6320	P	P	P	P	P
Public Secondary	23-4E-6320	P	P	P	P	P
(6) Restaurant and Bars						
No Restaurant and Bars uses allowed						
(7) Retail						
No Retail uses allowed						
(8) Entertainment and Recreation						
Recreation						
Indoor ≤ 5,000 sf	23-4E-6290	CUP	CUP	CUP	CUP	CUP
Indoor > 5,000 sf	23-4E-6290	CUP	CUP	CUP	CUP	CUP
Outdoor, Formal	23-4E-6290	CUP	CUP	CUP	CUP	CUP
Outdoor, Informal	23-4E-6290	P	P	P	P	P
Outdoor, Natural	23-4E-6290	P	P	P	P	P
(9) Industrial						
No Industrial uses allowed						

Key for Table 23-4D-2030(B)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-2030(B) Allowed Uses in Residential House-Scale Zones R2A–R2E (continued)						
Use Type	Specific to Use Requirements	R2A	R2B	R2C	R2D	R2E
(10) Agriculture						
Community Agriculture	23-4E-6120	P	P	P	P	P
(11) Automobile Related						
No Automobile Related uses allowed						
(12) Innovation and Technology						
No Innovation and Technology uses allowed						
(13) Other						
Accessory Uses	23-4E-6050	P	P	P	P	P
Communications	23-4E-6110	P	P	P	P	P
Utilities						
Local		P	P	P	P	P
Major		—	—	—	—	—
Telecommunications	23-4E-6370	P	P	P	P	P
Temporary Uses	23-4B-1050	TUP	TUP	TUP	TUP	TUP
Special Uses	23-4E-6350	CUP	CUP	CUP	CUP	CUP

Key for Table 23-4D-2030(B)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-2030(C) Allowed Uses in Residential House-Scale Zones R3A–R4C

Use Type	Specific to Use Requirements	R3A	R3B	R3C	R3D	R4A	R4B	R4C
(1) Residential								
Accessory Dwelling Unit - Residential	23-4E-6030	P	P	P	P	P	P	P
Bed and Breakfast	23-4E-6090	CUP	CUP	CUP	CUP	CUP	CUP	P
Cooperative Housing		CUP	CUP	CUP	MUP	MUP	MUP	MUP
Cottage Court	23-4E-6150	—	—	P	P	P	P	P
Duplex	23-4E-6170	P	P	P	P	P	P	P
Group Residential		—	—	—	—	—	—	CUP
Home Occupations	23-4E-6200	P	P	P	P	P	P	P
Multi-Family	23-4E-6250	—	—	—	—	P	P	P
Senior/Retirement Housing								
≤12	23-4E-6330	P	P	P	P	P	P	P
>12	23-4E-6330	—	—	—	—	—	—	—
Single-Family		P	P	P	P	P	P	P
Single-Family Attached		P	P	P	P	P	P	P
Short-term Rental								
Types 1	23-4E-6340	P	P	P	P	P	P	P
Types 2	23-4E-6340	—	—	—	—	—	—	—
Types 3	23-4E-6340	—	—	—	—	P	P	P
Townhouse		—	—	—	—	—	—	P
(2) Residential Support								
No Residential Support uses allowed								
(3) Services								
Day Care								
Small <7		P	P	P	P	P	P	P
Large 7 ≥ and ≤20		CUP	CUP	CUP	CUP	CUP	CUP	CUP
Commercial		—	CUP	CUP	—	—	—	CUP

Key for Table 23-4D-2030(C)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-2030(C) Allowed Uses in Residential House-Scale Zones R3A–R4C (continued)								
Use Type	Specific to Use Requirements	R3A	R3B	R3C	R3D	R4A	R4B	R4C
(4) Office								
No Office uses allowed								
(5) Civic and Public Assembly								
Library, Museum, or Public Art Gallery		CUP	CUP	CUP	CUP	CUP	CUP	MUP
Meeting Facility (public or private)		CUP	CUP	CUP	CUP	CUP	CUP	CUP
Public Safety Facility		CUP	CUP	CUP	CUP	CUP	CUP	CUP
Religious Assembly Facility		P	P	P	P	P	P	P
School								
Business, or Trade	23-4E-6320	—	—	—	—	—	—	—
College or University	23-4E-6320	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Private Primary	23-4E-6320	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Private Secondary	23-4E-6320	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Public Primary	23-4E-6320	P	P	P	P	P	P	P
Public Secondary	23-4E-6320	P	P	P	P	P	P	P
(6) Restaurant and Bars								
No Restaurant and Bars uses allowed								
(7) Retail								
No Retail uses allowed								
(8) Entertainment and Recreation								
Recreation								
Indoor ≤ 5,000 sf	23-4E-6290	CUP	CUP	CUP	CUP	CUP	CUP	MUP
Indoor > 5,000 sf	23-4E-6290	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Outdoor, Formal	23-4E-6290	CUP	CUP	CUP	CUP	CUP	CUP	MUP
Outdoor, Informal	23-4E-6290	P	P	P	P	P	P	P
Outdoor, Natural	23-4E-6290	P	P	P	P	P	P	P
Studio: art, dance, martial arts, music	23-4E-6370	—	—	—	—	P	P	—

Key for Table 23-4D-2030(C)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-2030(C) Allowed Uses in Residential House-Scale Zones R3A–R4C (continued)

Use Type	Specific to Use Requirements	R3A	R3B	R3C	R3D	R4A	R4B	R4C
(9) Industrial								
No Industrial uses allowed								
(10) Agriculture								
Community Agriculture	23-4E-6120	P	P	P	P	P	P	P
(11) Automobile Related								
No Automobile Related uses allowed								
(12) Innovation and Technology								
No Innovation and Technology uses allowed								
(13) Other								
Accessory Uses	23-4E-6050	P	P	P	P	P	P	P
Communications	23-4E-6110	P	P	P	P	P	P	P
Utilities								
Local		P	P	P	P	P	P	P
Major		—	—	—	—	—	—	—
Telecommunications	23-4E-6370	P	P	P	P	P	P	P
Temporary Uses	23-4B-1050	TUP	TUP	TUP	TUP	TUP	TUP	TUP
Special Uses	23-4E-6350	CUP	CUP	CUP	CUP	CUP	CUP	CUP

Key for Table 23-4D-2030(C)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

23-4D-2040 **Parking Requirements**

- (A) **Parking Required.** The off-street parking requirements for each use allowed within residential house-scale zones is established in Table (A) (Parking Requirements for Residential House Scale Zones).
- (B) **Maximum Number of Parking Spaces.** Developments over 10,000 square feet in floor area or containing 25 or more residential units shall not exceed the double the minimum number of parking spaces required. Maximum is calculated before any applicable parking reductions. Maximum does not apply to zones or land uses that require no off-street parking.
- (C) **Parking in Front Yards.**
 - (1) This section applies to a single-family residential use or a duplex residential use, or a single-family attached use in the following zones:
 - (a) Lake Austin (LA) zone;
 - (b) Rural Residential (RR) zone;
 - (c) Residential House-Scale 1 (R1) zones;
 - (d) Residential House-Scale 2 (R2) zones; and
 - (e) Residential House-Scale 3 (R3) zones
 - (2) In this section:
 - (a) BUILDING FACADE means the front-facing exterior wall or walls of the first floor of the principal structure on a lot, and the term excludes the building facade of the portion of the principal structure designed or used as a parking structure. Projections from front-facing exterior walls, including but not limited to eaves, chimneys, porches, stoops, box or bay windows, and other similar features as determined by the building official, are not considered part of the building facade.
 - (b) PARKING STRUCTURE means a garage or carport, either attached or detached from the principal structure.
 - (3) A parking structure with an entrance that faces the front yard abutting public right-of-way:
 - (a) may not be closer to the front lot line than the front-most exterior wall of the first floor of the building facade; and
 - (b) if the parking structure is less than 20 feet behind the building facade, the width of the parking structure may not exceed 50 percent of the width of the building facade, measured parallel to the front lot line, or the line determined by the building official if located on an irregular lot;
 - (c) if the parking structure is less than 20 feet behind the building facade, the width of the parking structure may not exceed 100 percent the width of the building facade, measured parallel to the front lot line, or the line determined by the building official if located on an irregular lot, if the lot width is less than 45 feet in width; or
 - (4) Subsection (3) does not apply to lots if the lot width is less than 30 feet.
- (D) **Off-Street Parking.** Section 23-4E-3060 (Off-Street Motor Vehicle Parking Adjustments) establishes the uses that are eligible for a parking adjustment.

Table 23-4D-2040(A) Parking Standards for Residential House-Scale Zones

Use Type	Off-Street Parking Requirement
(1) Residential	
Accessory Dwelling Unit - Residential	none required
Bed and Breakfast	1 plus 0.8 per bedroom
Cooperative Housing	1 plus 1 per every 4 bedrooms
Group Residential	1 plus 1 per every 3 bedrooms
Home Occupations	none required
Senior/ Retirement Housing	0.8 per unit
Other allowed residential uses	1 per unit
(2) Residential Support	
No residential support uses allowed	
(3) Services	
All allowed service uses	1 per 350 sf
(4) Office	
No office uses allowed	
(5) Civic and Public Assembly	
Library, Museum, or Public Art Gallery	1 per 500 sf
Meeting Facility (public or private)	1 per 500 sf
Other allowed civic and public assembly uses	As determined by the Director
(6) Restaurant and Bars	
No restaurant and bar uses allowed	
(7) Retail	
No retail uses allowed	Use not allowed in zones
(8) Entertainment and Recreation	
Studio: art, dance, martial arts, music	1 per 500 sf
Other allowed entertainment and recreation uses	As determined by the Director
(9) Industrial	
No industrial uses allowed	
(10) Agriculture	
All allowed agriculture uses	≤ 5,000 sf - None required
	> 5,000 sf - As determined by Director
(11) Automobile Related	
No automobile related uses allowed	
(12) Innovation and Technology	
No innovation and technology uses allowed	
(13) Other	
All allowed other uses	As determined by the Director

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23-4D-2050 Rural Residential (RR) Zone

- (A) **Purpose.** Rural residential (RR) zone is intended for lots with sloping terrain or other environmental limitations, or to maintain an existing pattern of large lots.
- (B) **Overview.** This zone allows detached housing on large lots. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects in this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned rural residential shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking); and
 - (6) Table (F) (Impervious Cover).



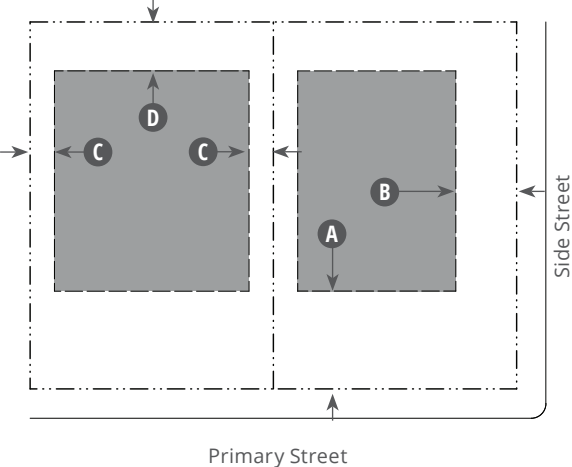
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Table 23-4D-2050(A) Lot Size and Intensity

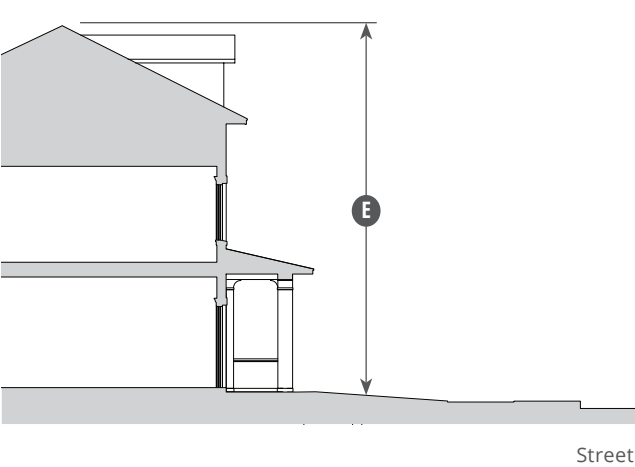
Allowed Use	Lot			Width along Cul-de-Sac ¹		
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)			
				At Front Lot Line	At Front Setback Line	All points 100 feet or more behind the front lot line
Single-Family	1	100'	1 acre	33'	60'	100'
Other Allowed Uses	—	100'	1 acre	33'	60'	100'
Accessory Allowed Use	Lot Size		Size (max.)			
Accessory Dwelling Unit	1 acre or greater		1,100 sf			
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 2.						
Accessory Dwelling Unit allowed only when participating in Affordable Housing Bonus Program.						
Accessory Dwelling Unit allowed with Single-Family use only.						

¹ If a lot fronts on a cul-de-sac and is included in a subdivision plat recorded after April 22, 1982 or is exempt from the requirement to plat.

Building Placement Diagram



Building Height Diagram



Key for Diagrams

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

Table 23-4D-2050(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	40' ¹	25' ¹	10'	20'

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

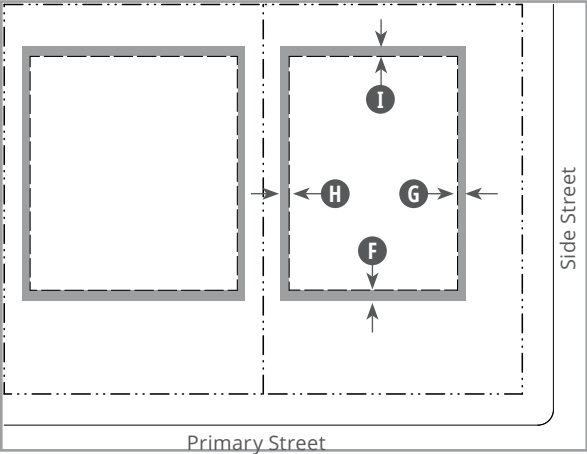
(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

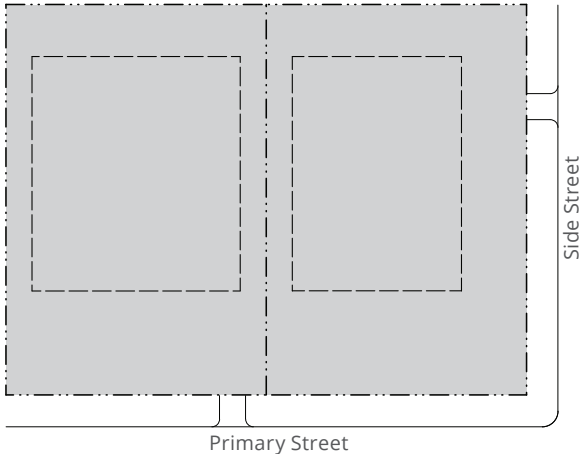
Table 23-4D-2050(C) Height

(1) Primary and Accessory Building		
Overall (max.)	35'	E
(2) Accessory Structure		
Overall (max.)	12'	

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment ■ Parking Area

Table 23-4D-2050(D) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	38'	23'	8'	18'
Pool	—	23'	8'	18'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-2050(E) Parking

(1) Parking Requirements

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Table 23-4D-2050(F) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	25% ³	23-3D-3
Building Cover	20%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

³The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

(2) Frontyard Impervious Cover

This section applies to a single-family residential use.

(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;

(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or

(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.

(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.

(e) A motor vehicle may only be parked or stored on driveway or paved parking space.

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23-4D-2060 Lake Austin (LA) Zone

- (A) **Purpose.** Lake Austin (LA) zone is intended to protect **natural environment, water quality, and recreational potential for future generations around Lake Austin.**
- (B) **Overview.** This zone allows detached housing on large lots. It can be summarized as:
- (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned Lake Austin shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking);
 - (6) Table (F) (Impervious Cover);
 - (7) Table (G) (Open Space); and
 - (8) Table (H) (Development on Slopes).

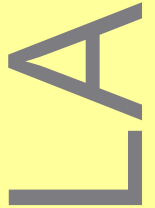
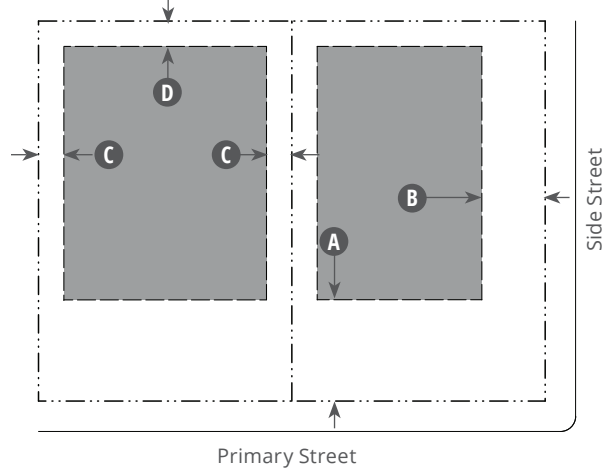
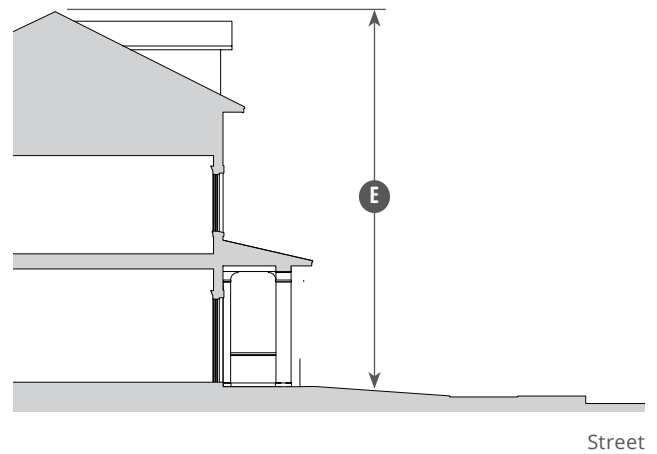


Table 23-4D-2060(A) Lot Size and Intensity						
Allowed Use	Lot			Width along Cul-de-Sac ¹		
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)			
				Base Standard	At Front Lot Line	At Front Setback Line
Single-Family	1	100'	1 acre	33'	60'	100'
Other Allowed Uses	—	100'	1 acre	33'	60'	100'
Accessory Allowed Use	Lot Size		Size (max.)			
Accessory Dwelling Unit	1 acre or greater		1,100 sf			
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 2.						
Accessory Dwelling Unit allowed only when participating in Affordable Housing Bonus Program.						
Accessory Dwelling Unit allowed with Single-Family use only.						
¹ If a lot fronts on a cul-de-sac and is included in a subdivision plat recorded after April 22, 1982 or is exempt from the requirement to plat						

Building Placement Diagram



Building Height Diagram



Key for Diagrams

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

Table 23-4D-2060(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	40' ¹	25' ¹	10'	10'
Shoreline ¹	75'	75'	75'	75'

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

For irregular lot configurations, the front property line may be determined by the Director.

No development is allowed in a shoreline setback area, except that:

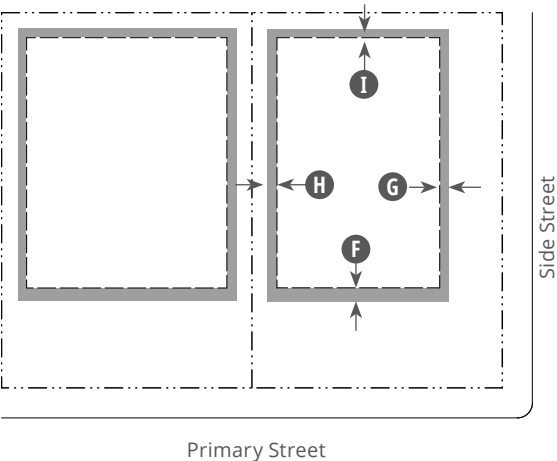
Bulkhead, retaining wall, fence, dock, public boat may be constructed and maintained in compliance with applicable regulations of this title.

An on-site sewage facility may be constructed and maintained in compliance with the applicable regulations of 23-5C-3080 (Private On-Site Sewage Facilities).

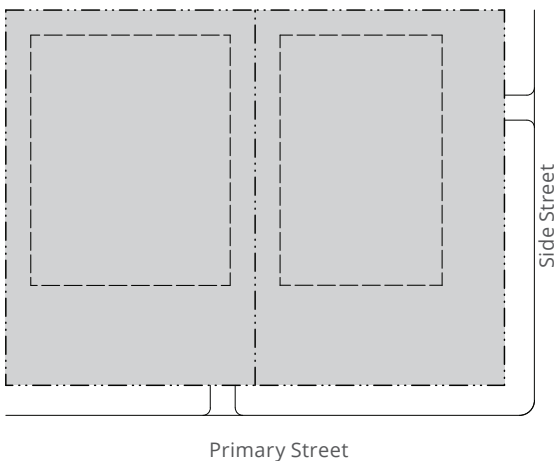
Table 23-4D-2060(C) Height

(1) All Buildings	
Overall (max.)	35' E

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-2060(D) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	38'	23'	8'	8'
Pool	—	23'	8'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-2060(E) Parking

(1) Parking Requirements

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

(3) Parking Setback from Shoreline

Minimum 75'

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-2060(F) Impervious Cover

(1) Impervious Cover: Lot Included in a subdivision plat recorded	Slope Gradient		
	15% or less	15.1%– 25%	25.1%– 35%

After April 22, 1982

Impervious Cover % (max.) ^{1,2} 20% 20% 10%

If impervious cover is transferred in compliance with this section and Subsection (M), 30 percent.

On or before April 22, 1982, or a tract that is not required to be platted

Impervious Cover % (max.) ^{1,2} 35% 10% 5%

If impervious cover is transferred in compliance with this section and Subsection (M), 40 percent.

Building Cover

See Division 23-3D-3 (Impervious Cover) for additional standards.

¹ A shoreline setback area is excluded from impervious cover calculations.

²The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-2060(F) Impervious Cover (continued)

(2) Frontyard Impervious Cover

This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.

(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;

(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or

(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.

(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.

(e) A motor vehicle may only be parked or stored on driveway or paved parking space.

(3) Impervious Cover Transfer

For a lot included in a subdivision plat recorded after April 22, 1982, impervious cover allowed on a gradient of more than 25 percent may be transferred to land on a gradient of 25 percent or less outside of the shoreline setback. For a lot included in a subdivision plat recorded before April 22, 1982, or a tract that is not required to be platted, impervious cover allowed on a gradient of more than 15 percent may be transferred to land on a gradient of 15 percent or less outside of the shoreline setback.

Land from which impervious cover is transferred must remain undisturbed if the land exists in a natural condition, or restored to a natural condition, as prescribed by the Environmental Criteria Manual.

A transfer of impervious cover must be documented in a manner approved by the director and documented in the County deed records.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-2060(G) Open Space

See Section 23-4C-1070.

Table 23-4D-2060(H) Development on Slopes

(1) On a slope with a gradient of more than 15 percent

Vegetation must be restored with native vegetation, as prescribed by the Environmental Criteria Manual, if it is disturbed or removed as a result of construction; and

Construction uphill or downhill from the slope must comply with the Environmental Criteria Manual.

(2) On a slope with a gradient of more than 35 percent


Fence, driveway, road, or utility that cannot be reasonably placed elsewhere may be constructed;

A non-mechanized pedestrian facility, such as a foot path, sidewalk, or stairs may be constructed;

All other development is prohibited.

23-4D-2070 Residential 1A (R1A) Zone

- (A) **Purpose.** Residential 1A (R1A) zone is intended for use on land with sloping terrain or other environmental limitations, or to maintain areas with an existing pattern of large lots.
- (B) **Overview.** This zone allows detached housing on large lots. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned residential 1A shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking);
 - (6) Table (F) (Impervious Cover); and
 - (7) Table (G) (Open Space).

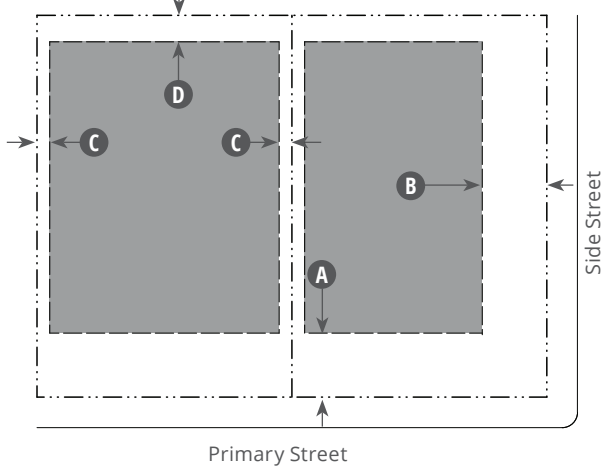


R1A

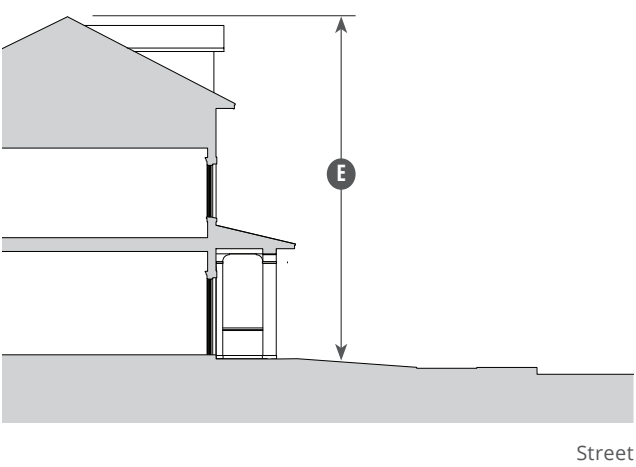
Table 23-4D-2070(A) Lot Size and Intensity

Allowed Use	Lot		
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)
	Base Standard		
Single-Family	1	60'	10,000 sf
Other Allowed Uses	—	60'	10,000 sf
Accessory Allowed Use	Lot Size		Size (max.)
Accessory Dwelling Unit	15,000 sf or greater		1,100 sf
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 2.			
Accessory Dwelling Unit allowed only when participating in Affordable Housing Bonus Program.			
Accessory Dwelling Unit allowed with Single-Family use only.			

Building Placement Diagram



Building Height Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line
- Buildable Area

Table 23-4D-2070(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25' ¹	25' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for accessory structures with a maximum height of fifteen feet.

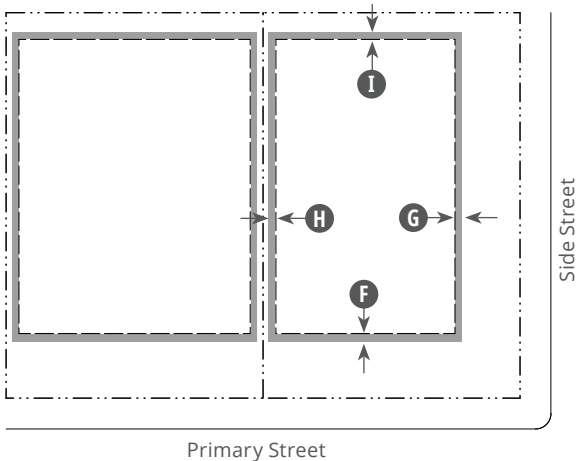
(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

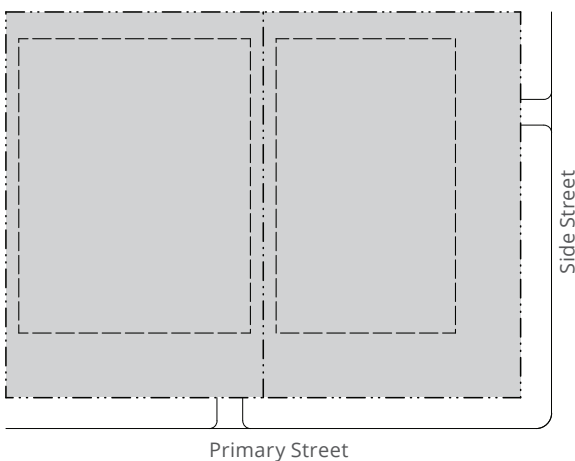
Table 23-4D-2070(C) Height

(1) Primary and Accessory Building		
Overall (max.)	35'	E
(2) Accessory Structure		
Overall (max.)	12'	

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Encroachment

Parking Area

Table 23-4D-2070(D) Encroachments

(1) Setback Encroachments	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	0'	5'
Fountain	23'	23'	3'	8'
Pool	—	23'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7.)

² 3' max. above ground.

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-2070(E) Parking

(1) Parking Requirements

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-2070(F) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	40% ³	23-3D-3
Building Cover	35%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

³The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

(2) Frontyard Impervious Cover

This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.

(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;

(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or

(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.

(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.

(e) A motor vehicle may only be parked or stored on driveway or paved parking space.

Table 23-4D-2070(G) Open Space

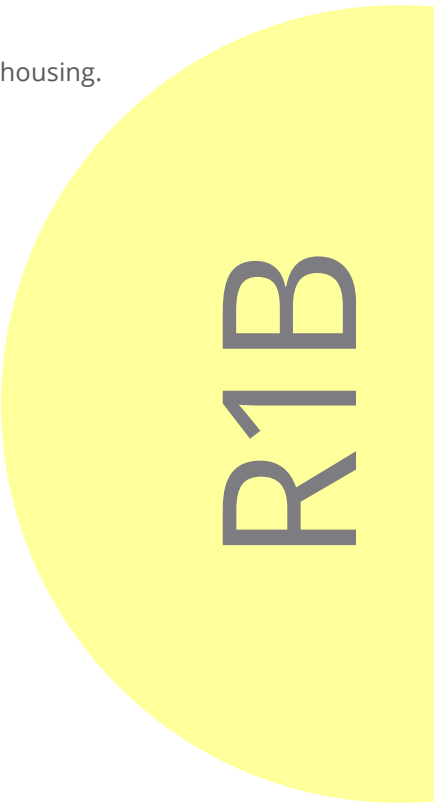
(1) Open Space Type	Size (min.)
Personal Open Space	None required
Common Open Space	5% gross site area ⁴
Civic Open Space	
Sites <4 acres	None
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

⁴For sites 2 acres or larger see Section 23-4C-1030 (Common Open Space). Otherwise none required

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23-4D-2080 Residential 1B (R1B) Zone

- (A) **Purpose.** Residential 1B (R1B) zone is intended to allow detached housing.
- (B) **Overview.** This zone allows detached housing and includes manufactured homes that are not located within a manufactured home park. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned residential 1B shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking);
 - (6) Table (F) (Impervious Cover); and
 - (7) Table (G) (Open Space).

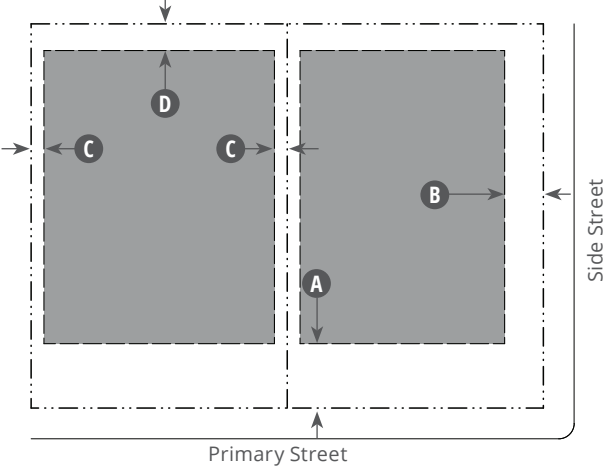


R1B

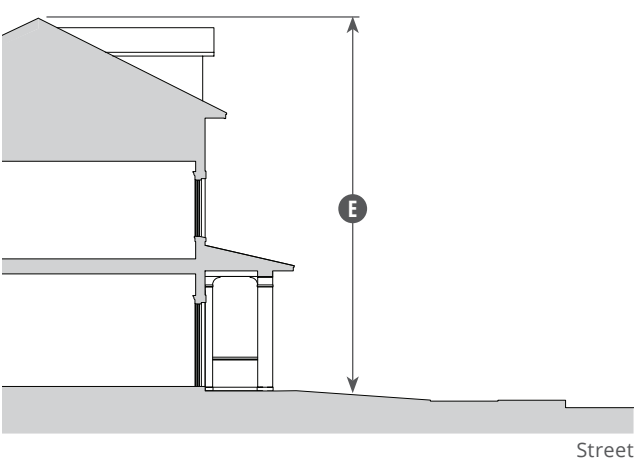
Table 23-4D-2080(A) Lot Size and Intensity

Allowed Use	Lot		
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)
	Base Standard		
Single-Family	1	45'	5,000 sf
Other Allowed Uses	—	45'	5,000 sf
Accessory Allowed Use	Lot Size		Size (max.)
Accessory Dwelling Unit	15,000 sf or greater		1,100 sf
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 2.			
Accessory Dwelling Unit allowed only when participating in Affordable Housing Bonus Program.			
Accessory Dwelling Unit allowed with Single-Family use only.			

Building Placement Diagram



Building Height Diagram



Key for Diagrams

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

Table 23-4D-2080(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25' ¹	15' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for accessory structures with a maximum height of fifteen feet.

(2) Additional Setbacks

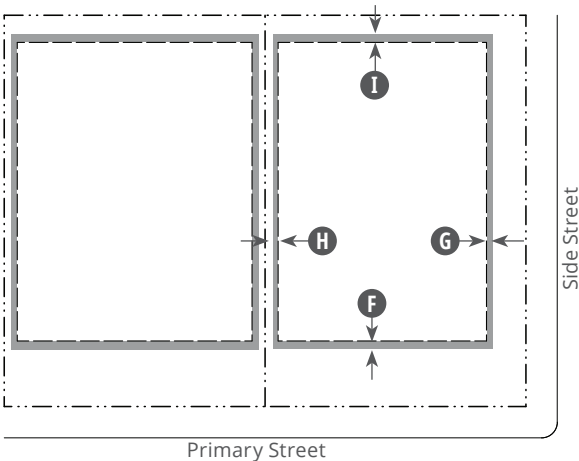
(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

² Rear setback is 5 feet for accessory structures with a maximum height of 15 feet.

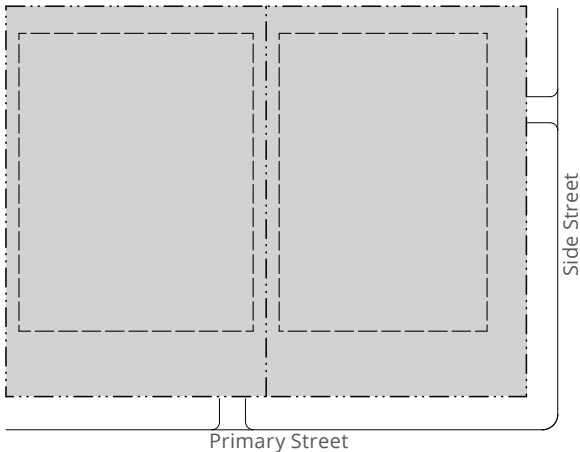
Table 23-4D-2080(C) Height

(1) Primary and Accessory Building	
Overall (max.)	35' E
(2) Accessory Structure	
Overall (max.)	12'

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-2080(D) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

(1) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-2080(E) Parking

(1) Parking Requirements

See Section 23-4D-2040 (Parking Requirements) for standards.

(1) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-2080(F) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	45% ³	23-3D-3
Building Cover	40%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

³ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

(2) Frontyard Impervious Cover

This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.

(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;

(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or

(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.

(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.

(e) A motor vehicle may only be parked or stored on driveway or paved parking space.

Table 23-4D-2080(G) Open Space

(1) Open Space Type	Size (min.)
Personal Open Space	None required
Common Open Space	5% gross site area ⁴
Civic Open Space	
Sites <4 acres	None
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

⁴ For sites 2 acres or larger see Section 23-4C-1030 (Common Open Space). Otherwise none required

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23-4D-2090 Residential 1C (R1C) Zone

- (A) **Purpose.** Residential 1C (R1C) zone is intended to allow detached housing.
- (B) **Overview.** This zone allows detached housing. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects in this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned residential 1C shall comply with the requirements in this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Impervious Cover); and
 - (8) Table (H) (Open Space).

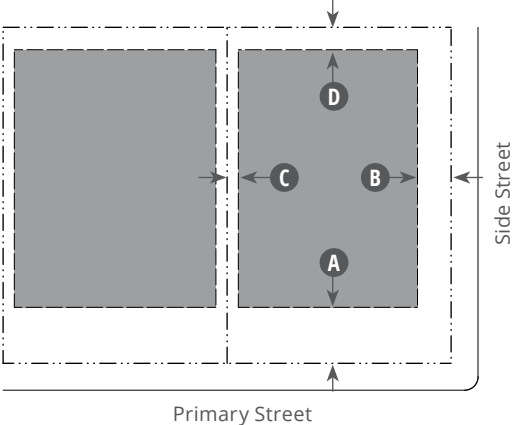


R1C

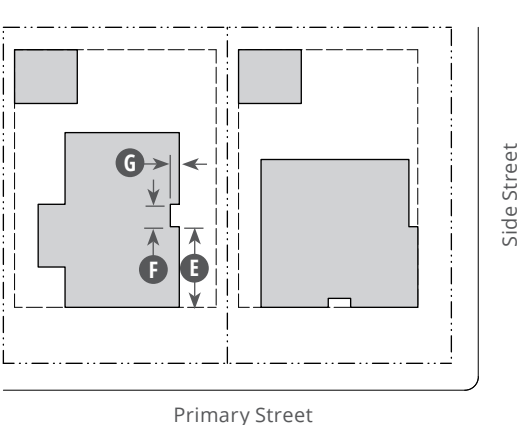
Table 23-4D-2090(A) Lot Size and Intensity

Allowed Use	Lot			Building
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)	Size (max.)
	Base Standard			Base Standard The less restrictive shall apply between:
Single-Family	1	45'	5,000 sf	0.4 FAR or 2,300 sf
Other Allowed Uses	—	45'	5,000 sf	0.4 FAR
Accessory Allowed Use	Lot Size			Size (max.)
Accessory Dwelling Unit	15,000 sf or greater			1,100 sf
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 2.				
Accessory Dwelling Unit allowed only when participating in Affordable Housing Bonus Program.				
Accessory Dwelling Unit allowed with Single-Family use only.				
Accessory Dwelling Unit size counts towards the principal use's FAR limit.				
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.				

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
■ Buildable Area

--- Building Setback Line ■ Building Footprint

Table 23-4D-2090(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear ² D
Minimum	25' ¹	15' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure with a maximum height of fifteen feet.

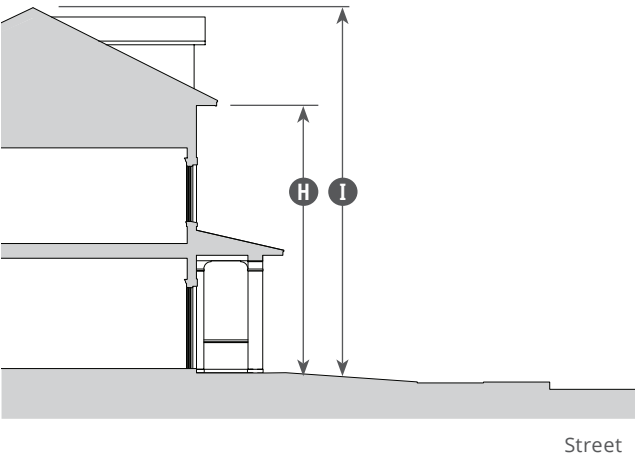
(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

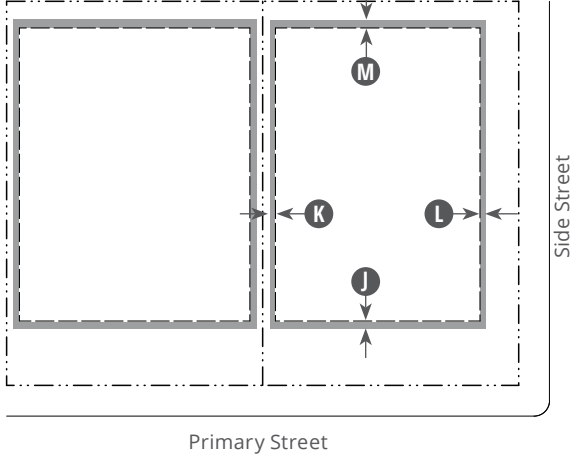
Table 23-4D-2090(C) Building Form

(1) Building Articulation, New Construction		
Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.		
(2) Facade(s), All Stories		
Facade length without articulation (max.)	36'	E
Articulation Length (min.)	10'	F
Articulation Depth (min.)	4'	G

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-2090(D) Height

(1) All Buildings

To Top Plate (max.)	22'	H
Overall (max.)	32'	I

Table 23-4D-2090(E) Encroachments

(1) Encroachment Type	Front (max.) J	Side St. (max.) K	Side (max.) L	Rear (max.) M
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

Table 23-4D-2090(E) Encroachments (continued)

(2) Height Encroachment

The following height encroachment types may encroach above the top plate maximum up to the overall maximum.

(a) Height Encroachment Type	Encroachment Height above top plate (max.)	Encroachment Length (max.)
Gable End	11'	30', within 60' of Front Lot Line
Dormers	11'	15' combined on each building

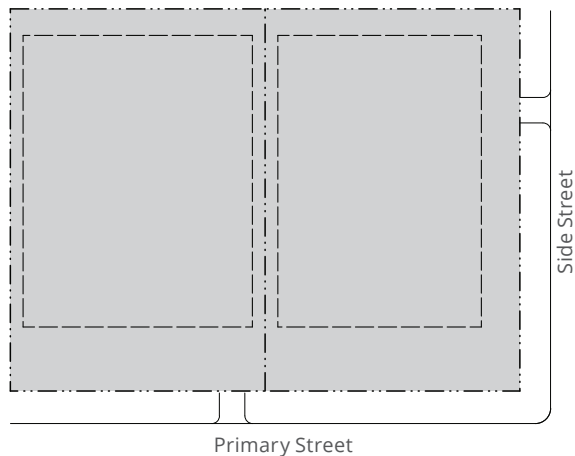
See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Parking Diagram**Key for Diagrams**

---ROW / Lot Line

■ Parking Area

--- Building Setback Line

Table 23-4D-2090(F) Parking**(1) Parking Requirements**

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Table 23-4D-2090(G) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	45% ¹	23-3D-3
Building Cover	40%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

¹The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

(2) Frontyard Impervious Cover

This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.

(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;

(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or

(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.

(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.

(e) A motor vehicle may only be parked or stored on driveway or paved parking space.

Table 23-4D-2090(H) Open Space	
(1) Open Space Type	Size (min.)
Personal Open Space	None required
Common Open Space	5% gross site area ²
Civic Open Space	
Sites <4 acres	None
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

² For sites 2 acres or larger see Section 23-4C-1030 (Common Open Space). Otherwise none required

23-4D-2100 Residential 2A (R2A) Zone

- (A) **Purpose.** Residential 2A (R2A) zone is used to maintain existing patterns of corner duplexes, or to add housing capacity in areas without corner duplexes.
- (B) **Overview.** This zone allows primarily detached housing and accessory dwelling units, with duplexes allowed only on corner lots. It can be summarized as:
 - (1) not eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height setbacks or additional setbacks.
- (C) **Requirements.** Requirements. A lot zoned residential 2A shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Impervious Cover); and
 - (8) Table (H) (Open Space).

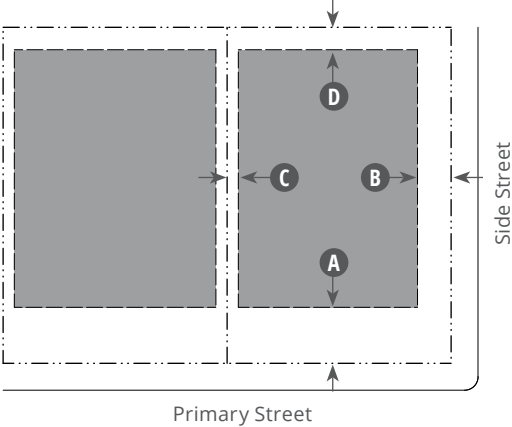


R2A

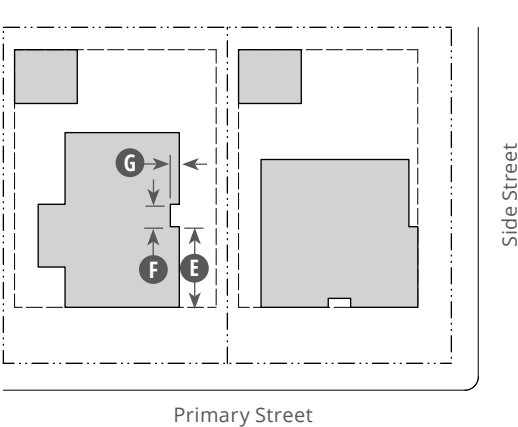
Table 23-4D-2100(A) Lot Size and Intensity

Allowed Use	Lot			Building
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)	Size (max.)
				Base Standard The less restrictive shall apply between:
Single-Family	1	45'	5,000 sf	0.4 FAR or 2,300 sf
Single-Family Attached	1	25'	2,500 sf	0.4 FAR or 1,150 sf
Duplex	2	45'	5,000 sf	0.4 FAR or 2,300 sf
Other Allowed Uses	—	45'	5,000 sf	0.4 FAR
Accessory Allowed Use	Lot Size			Size (max.)
Accessory Dwelling Unit	5,000 to 6,999 sf			975 sf
Accessory Dwelling Unit	7,000 sf or greater			1,100 sf
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 2.				
Accessory Dwelling Unit allowed with Single-Family and Single-Family Attached uses only.				
Accessory Dwelling Unit size counts towards the principal use's FAR limit.				
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.				

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
■ Buildable Area

--- Building Setback Line ■ Building Footprint

Table 23-4D-2100(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear ² D
Minimum	25' ¹	15' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure with a maximum height of fifteen feet.

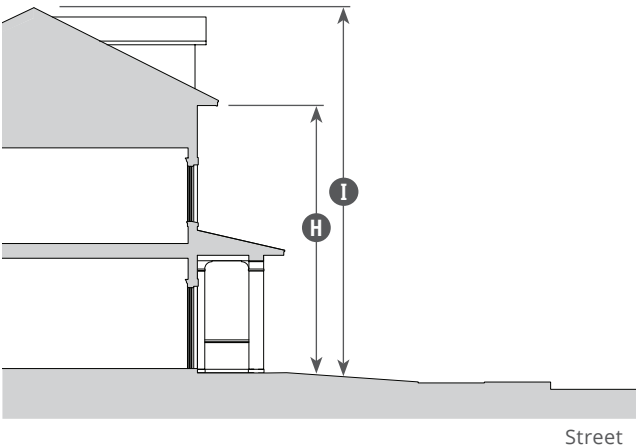
(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

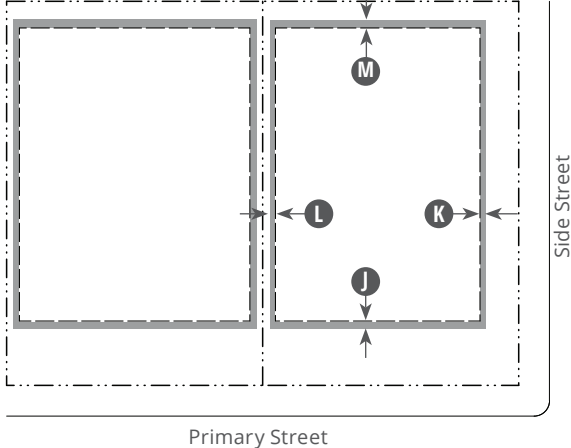
Table 23-4D-2100(C) Building Form

(1) Building Articulation, New Construction		
Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.		
(2) Facade(s), All Stories		
Unarticulated Facade Length (max.)	36'	E
Articulation Length (min.)	10'	F
Articulation Depth (min.)	4'	G

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Encroachment

Table 23-4D-2100(D) Height

(1) All Buildings

To Top Plate (max.)	22'	H
Overall (max.)	32'	I

Table 23-4D-2100(E) Encroachments

(1) Encroachment Type	Front (max.) J	Side St. (max.) K	Side (max.) L	Rear (max.) M
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

Table 23-4D-2100(E) Encroachments (continued)

(2) Height Encroachment

The following height encroachment types may encroach above the top plate maximum up to the overall maximum.

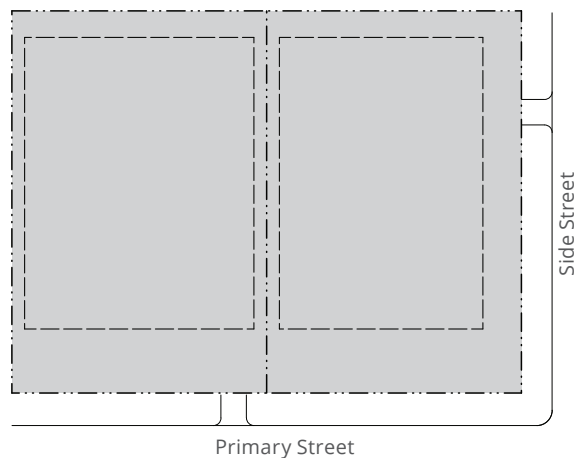
(a) Height Encroachment Type	Encroachment Height above Top Plate (max.)	Encroachment Length (max.)
Gable End	11'	30', within 60' of Front Lot Line
Dormers	11'	15' combined on each building

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Key for Tables

- A = Allowed
- = Not Allowed
- N/R = No Requirement

Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

 Parking Area

Table 23-4D-2100(F) Parking

(1) Parking Requirements

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Table 23-4D-2100(G) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	45% ¹	23-3D-3
Building Cover	40%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

¹The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

(2) Frontyard Impervious Cover

This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.

- (a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;
- (b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or
- (c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.
- (d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.
- (e) A motor vehicle may only be parked or stored on driveway or paved parking space.

Table 23-4D-2100(H) Open Space	
(1) Open Space Type	Size (min.)
Personal Open Space	None required
Common Open Space	5% gross site area ²
Civic Open Space	
Sites <4 acres	None
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

² For sites 2 acres or larger see Section 23-4C-1030 (Common Open Space). Otherwise none required

23-4D-2110 Residential 2B (R2B) Zone

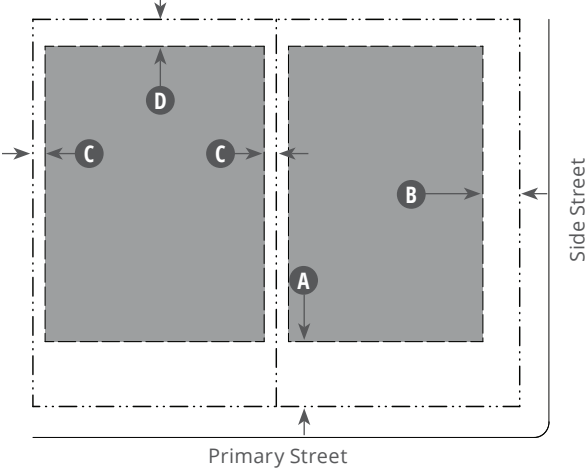
- (A) **Purpose.** Residential 2B (R2B) zone is intended to allow detached housing and duplexes, with accessory dwelling units on lots without duplexes.
- (B) **Overview.** This zone allows detached housing with accessory dwellings and duplexes. It can be summarized as:
 - (1) not eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned residential 2B shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking);
 - (6) Table (F) (Impervious Cover); and
 - (7) Table (G) (Open Space).



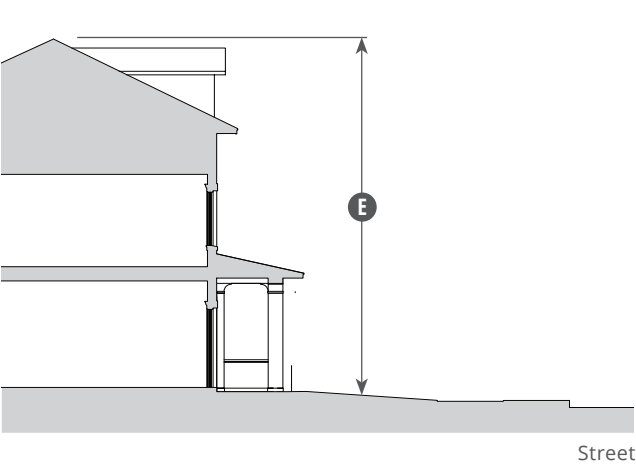
R2B

Table 23-4D-2110(A) Lot Size and Intensity			
Allowed Use	Lot		
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)
	Base Standard		
Single-Family	1	45'	5,000 sf
Single-Family Attached	1	25'	2,500 sf
Duplex	2	50'	5,000 sf
Other Allowed Uses	—	45'	5,000 sf
Accessory Allowed Use	Lot Size		Size (max.)
Accessory Dwelling Unit	5,000 to 6,999 sf		975 sf
Accessory Dwelling Unit	7,000 sf or greater		1,100 sf
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 2.			
Accessory Dwelling Unit allowed with Single-Family and Single-Family Attached uses only.			

Building Placement Diagram



Building Height Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line
- Buildable Area

Table 23-4D-2110(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25' ¹	15' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure with a maximum height of fifteen feet.

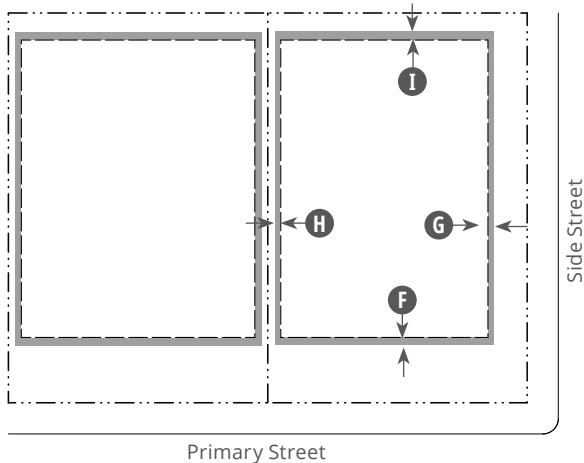
(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

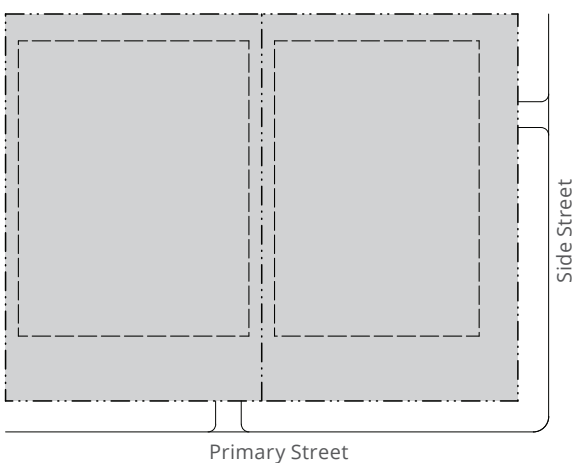
Table 23-4D-2110(C) Height

(1) Primary and Accessory Building	
Overall (max.)	35' E
(2) Accessory Structure	
Overall (max.)	12'

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Encroachment

Parking Area

Table 23-4D-2110(D) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-2110(E) Parking

(1) Parking Requirements

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-2110(F) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	45% ³	23-3D-3
Building Cover	40%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

³The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

(2) Frontyard Impervious Cover

This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.

(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;

(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or

(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.

(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.

(e) A motor vehicle may only be parked or stored on driveway or paved parking space.

Table 23-4D-2110(G) Open Space

(1) Open Space Type	Size (min.)
Personal Open Space	None required
Common Open Space	5% gross site area ⁴
Civic Open Space	
Sites <4 acres	None
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

⁴For sites 2 acres or larger see Section 23-4C-1030 (Common Open Space). Otherwise none required

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23-4D-2120 Residential 2C (R2C) Zone

- (A) **Purpose.** Residential 2C (R2C) zone is intended to allow detached housing and duplexes, with accessory dwelling units on lots without duplexes.
- (B) **Overview.** This zone allows detached housing and duplexes; and allows accessory dwelling units on lots without duplexes. It can be summarized as:
 - (1) not eligible for affordable housing bonus programs; and
 - (2) the compatibility effects in this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned residential 2C shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Impervious Cover); and
 - (8) Table (H) (Open Space).

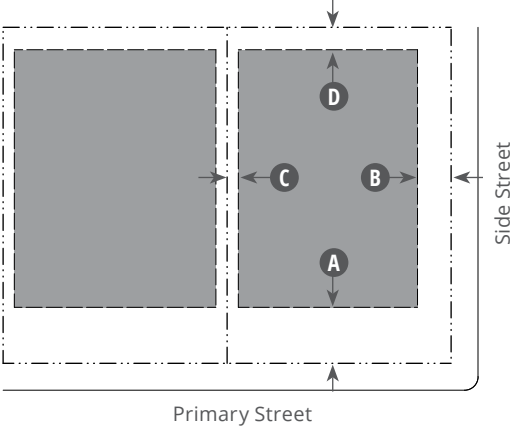


R2C

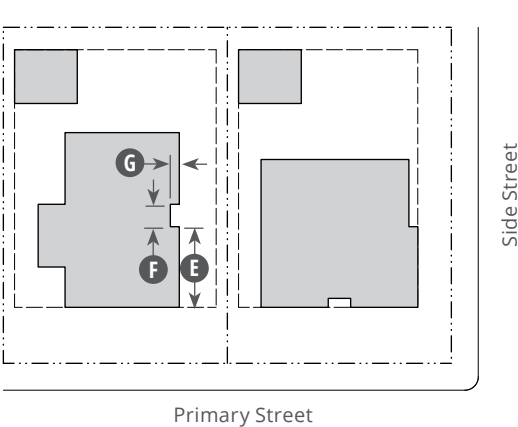
Table 23-4D-2120(A) Lot Size and Intensity

Allowed Use	Lot			Building
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)	Size (max.)
				Base Standard The less restrictive shall apply between:
Single-Family	1	45'	5,000 sf	0.4 FAR or 2,300 sf
Single-Family Attached	1	25'	2,500 sf	0.4 FAR or 1,150 sf
Duplex	2	45'	5,000 sf	0.4 FAR or 2,300 sf
Other Allowed Uses	—	45'	5,000 sf	0.4 FAR
Accessory Allowed Use	Lot Size			Size (max.)
Accessory Dwelling Unit	5,000 to 6,999 sf			975 sf
Accessory Dwelling Unit	7,000 sf or greater			1,100 sf
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 2.				
Accessory Dwelling Unit allowed with Single-Family and Single-Family Attached uses only.				
Accessory Dwelling Unit size counts towards the principal use's FAR limit.				
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.				

Building Placement Diagram



Building Form Diagram



Key for Diagrams

- ROW / Lot Line
- Buildable Area

Key for Diagrams

- Building Setback Line
- Building Footprint

Table 23-4D-2120(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25'	15'	5'	10'

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure with a maximum height of fifteen feet.

(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

Table 23-4D-2120(C) Building Form

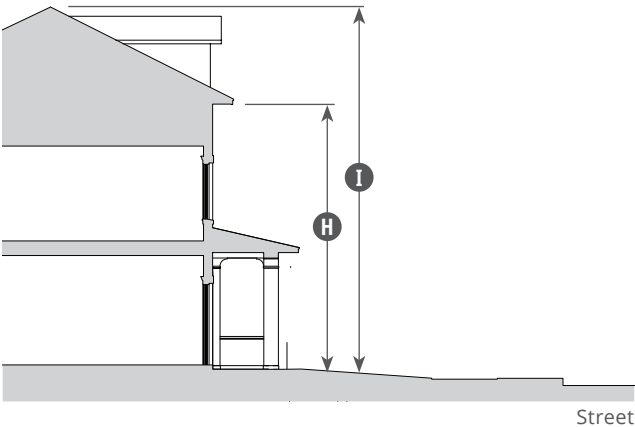
(1) Building Articulation New Construction

Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.

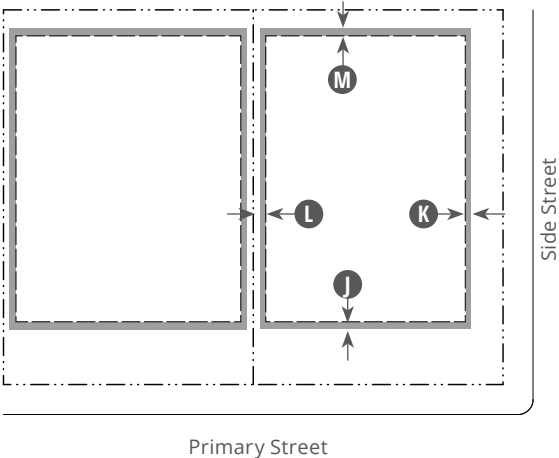
(2) Facade(s), All Stories

Facade length without articulation (max.)	36'	E
Articulation Length (min.)	10'	F
Articulation Depth (min.)	4'	G

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-2120(D) Height

(1) All Buildings

To Top Plate (max.)	22'	H
Overall (max.)	32'	I

Table 23-4D-2120(E) Encroachments

(1) Encroachment Type	Front (max.) J	Side St. (max.) K	Side (max.) L	Rear (max.) M
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

Table 23-4D-2120(E) Encroachments (continued)

(2) Height Encroachment

The following height encroachment types may encroach above the top plate maximum up to the overall maximum.

(a) Height Encroachment Type	Encroachment Height above top plate (max.)	Encroachment Length (max.)
Gable End	11'	30', within 60' of Front Lot Line
Dormers	11'	15' combined on each building

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

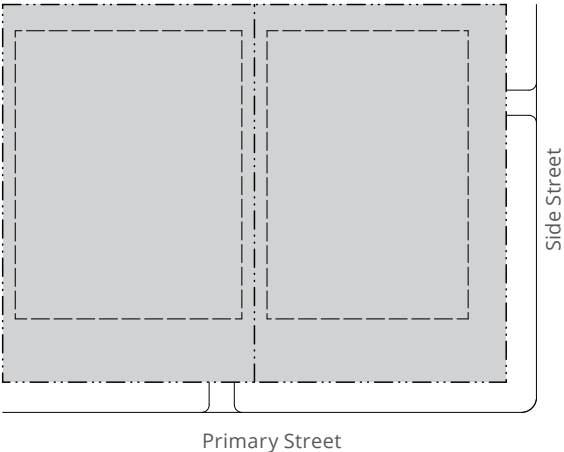
Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Parking Diagram



Key for Diagrams

--- ROW / Lot Line

--- Building Setback Line

Parking Area

Table 23-4D-2120(F) Parking
(1) Parking Requirements
See Section 23-4D-2040 (Parking Requirements) for standards.
(2) Parking Setbacks (Distance from ROW / Lot Line)
No parking setbacks are required in this zone.

Table 23-4D-2120(G) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	45% ¹	23-3D-3
Building Cover	40%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		
¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.		
(2) Frontyard Impervious Cover		
This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.		
(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;		
(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or		
(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.		
(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.		
(e) A motor vehicle may only be parked or stored on driveway or paved parking space.		

Table 23-4D-2120(H) Open Space	
(1) Open Space Type	Size (min.)
Personal Open Space	None required
Common Open Space	5% gross site area ²
Civic Open Space	
Sites <4 acres	None required
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

² For sites 2 acres or larger see Section 23-4C-1030 (Common Open Space). Otherwise none required

23-4D-2130 Residential 2D (R2D) Zone

- (A) **Purpose.** Residential 2D (R2D) zone is intended to allow detached housing and duplexes, with accessory dwelling units on lots without duplexes. This zone is meant for small lots.
- (B) **Overview.** This zone allows detached housing and duplexes; and allows accessory dwelling units on lots without duplexes. It can be summarized as:
 - (1) not eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height setbacks or additional setbacks.
- (C) **Requirements.** A lot zoned residential 2D shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking);
 - (6) Table (F) (Impervious Cover); and
 - (7) Table (G) (Open Space).

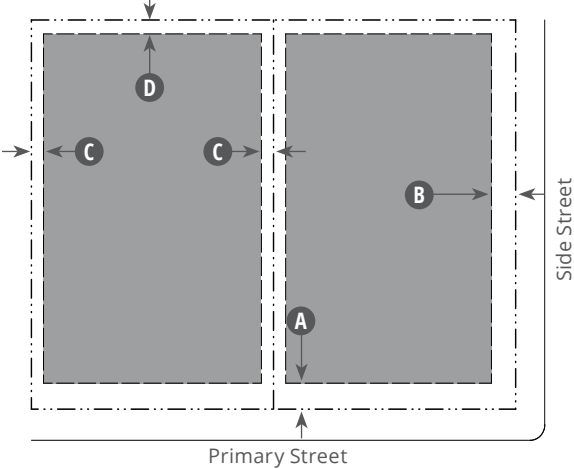


R2D

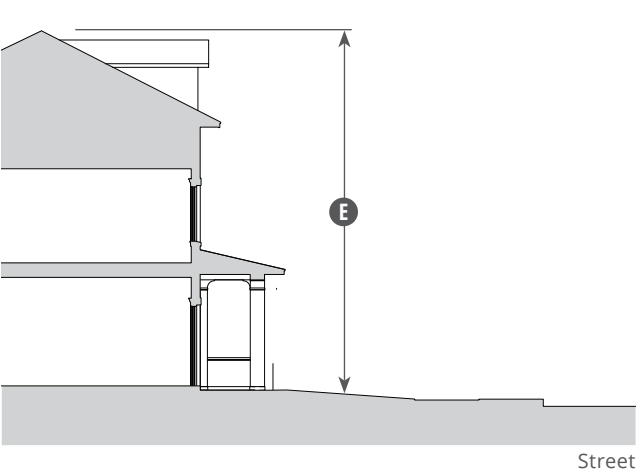
Table 23-4D-2130(A) Lot Size and Intensity

Allowed Use	Lot		
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)
	Base Standard		
Single-Family	1	35'	3,500 sf
Single-Family Attached	1	25'	2,500 sf
Duplex	2	45'	5,000 sf
Other Allowed Uses	—	35'	3,500 sf
Accessory Allowed Use	Lot Size		Size (max.)
Accessory Dwelling Unit	3,500 to 4,999 sf		750 sf
Accessory Dwelling Unit	5,000 to 6,999 sf		975 sf
Accessory Dwelling Unit	7,000 sf or greater		1,100 sf
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 2.			
Accessory Dwelling Unit allowed with Single-Family and Single-Family Attached uses only.			

Building Placement Diagram



Building Height Diagram



Key for Diagrams

--- ROW / Lot Line --- Building Setback Line ■ Buildable Area

Table 23-4D-2130(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	15' ¹	10' ¹	3.5'	5'

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

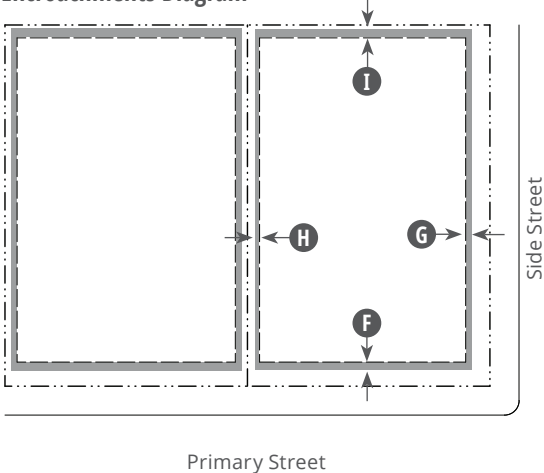
Table 23-4D-2130(C) Height

(1) Primary and Accessory Building		
Overall (max.)	35'	E
(2) Accessory Structure		
Overall (max.)	12'	

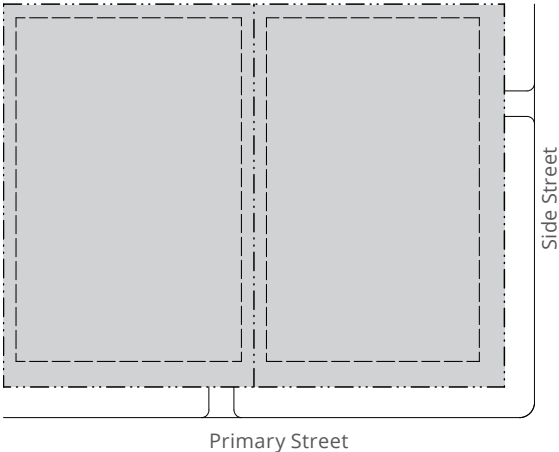
Key for Tables

A = Allowed — = Not Allowed N/R = No Requirement

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-2130(D) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	13'	8'	1.5'	3'
Pool	—	8'	1.5'	3'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-2130(E) Parking

(1) Parking Requirements

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-2130(F) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	65% ³	23-3D-3
Building Cover	55%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

³The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

(2) Frontyard Impervious Cover

This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.

(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;

(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or

(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.

(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.

(e) A motor vehicle may only be parked or stored on driveway or paved parking space.

Table 23-4D-2130(G) Open Space

(1) Open Space Type	Size (min.)
Personal Open Space	None required
Common Open Space	5% gross site area ⁴
Civic Open Space	
Sites <4 acres	None
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

⁴For sites 2 acres or larger see Section 23-4C-1030 (Common Open Space). Otherwise none required

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23-4D-2140 Residential 2E (R2E) Zone

- (A) **Purpose.** Residential 2E (R2E) zone is intended for small lots.
- (B) **Overview.** This zone allows detached housing and duplexes; and allows accessory dwelling units on a lot without a duplex. It can be summarized as:
 - (1) not eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned residential 2E shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Impervious Cover); and
 - (8) Table (H) (Open Space).

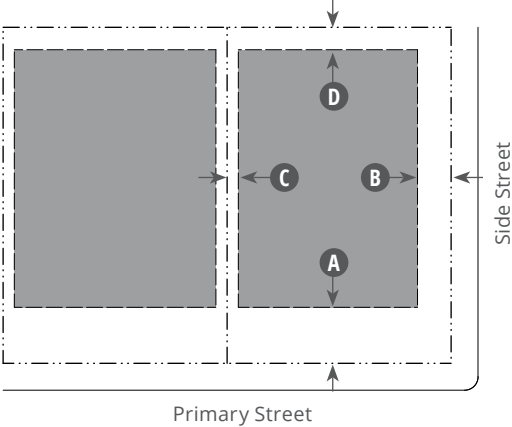


R2E

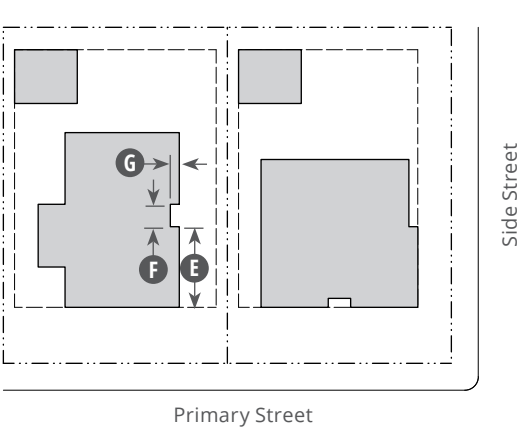
Table 23-4D-2140(A) Lot Size and Intensity

Allowed Use	Lot			Building
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)	Size (max.)
				Base Standard The less restrictive shall apply between:
Single-Family	1	35'	3,500 sf	0.4 FAR or 2,300 sf
Single-Family Attached	1	25'	2,500 sf	0.4 FAR or 1,150 sf
Duplex	2	45'	5,000 sf	0.4 FAR or 2,300 sf
Other Allowed Uses	—	35'	3,500 sf	0.4 FAR
Accessory Allowed Use	Lot Size			Size (max.)
Accessory Dwelling Unit	3,500 to 4,999 sf			750 sf
Accessory Dwelling Unit	5,000 to 6,999 sf			975 sf
Accessory Dwelling Unit	7,000 sf or greater			1,100 sf
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 2.				
Accessory Dwelling Unit allowed with Single-Family and Single-Family Attached uses only.				
Accessory Dwelling Unit size counts towards the principal use's FAR limit.				
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.				

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
■ Buildable Area

--- Building Setback Line ■ Building Footprint

Table 23-4D-2140(B) Building Placement				
(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	15' ¹	10' ¹	3.5'	5'

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

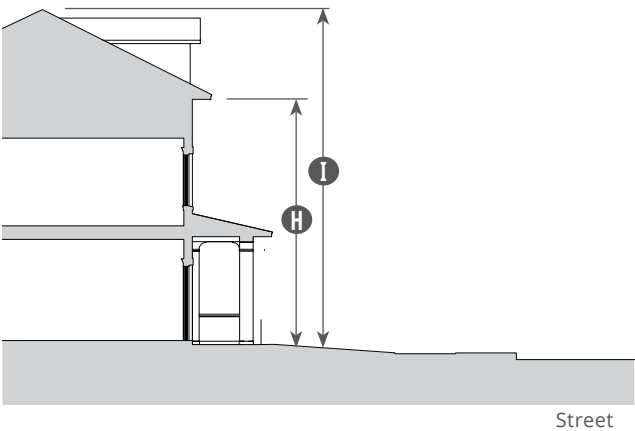
(2) Additional Setbacks
(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

Table 23-4D-2140(C) Building Form		
(1) Building Articulation New Construction		

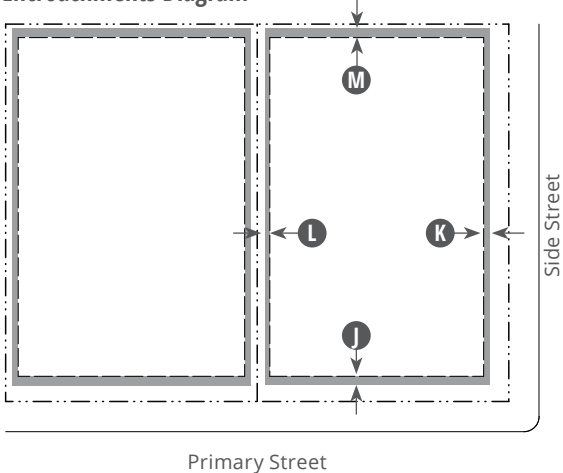
Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.

(2) Facade(s), All Stories		
Facade Length without Articulation (max.)	36'	E
Articulation, Depth (min.)	4'	F
Articulation, Length (min.)	10'	G

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-2140(D) Height

(1) All Buildings

To Top Plate (max.)	22'	H
Overall (max.)	32'	I

Table 23-4D-2140(E) Encroachments

(1) Encroachment Type	Front (max.) J	Side St. (max.) K	Side (max.) L	Rear (max.) M
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

Table 23-4D-2140(E) Encroachments (continued)

(2) Height Encroachment

The following height encroachment types may encroach above the top plate maximum up to the overall maximum.

(a) Height Encroachment Type	Encroachment Height above top plate (max.)	Encroachment Length (max.)
Gable End	11'	30', within 60' of Front Lot Line
Dormers	11'	15' combined on each building

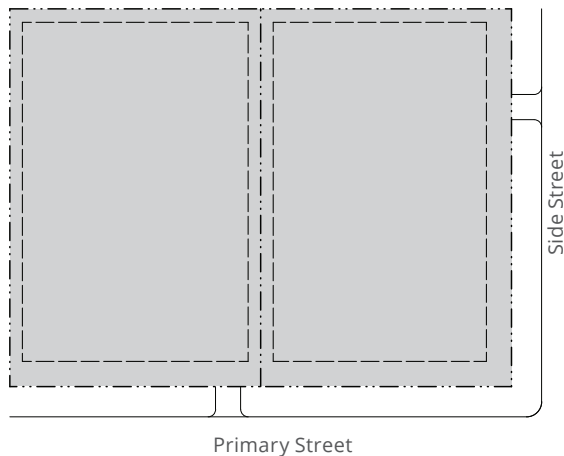
See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-2140(F) Parking**(1) Parking Requirements**

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Table 23-4D-2140(G) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	65% ¹	23-3D-3
Building Cover	55%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

¹The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

(2) Frontyard Impervious Cover

This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.

(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;

(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or

(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.

(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.

(e) A motor vehicle may only be parked or stored on driveway or paved parking space.

Table 23-4D-2140(H) Open Space	
(1) Open Space Type	Size (min.)
Personal Open Space	None required
Common Open Space	5% gross site area ²
Civic Open Space	
Sites <4 acres	None required
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

² For sites 2 acres or larger see Section 23-4C-1030 (Common Open Space). Otherwise none required

23-4D-2150 Residential 3A (R3A) Zone

- (A) **Purpose.** Residential 3A (R3A) zone is intended for areas that are accessible to mixed use and main street zones by walking or biking.
- (B) **Overview.** This zone allows detached housing and duplexes; and allows accessory dwelling units on lots that are wider than those in R3B and R3C. It can be summarized as:
 - (1) not eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned residential 3A shall comply with the requirements of this subsection, which are established in the following table:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Frontages);
 - (7) Table (G) (Parking);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).

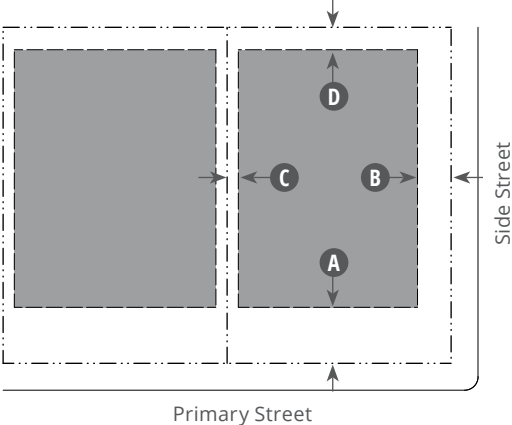


R3A

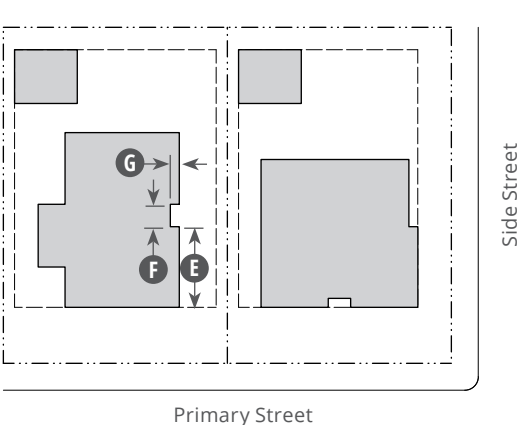
Table 23-4D-2150(A) Lot Size and Intensity

Allowed Use	Lot			Building
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)	Size (max.)
				Base Standard The less restrictive shall apply between:
Single-Family	1	60'	6,500 sf	0.4 FAR
Single-Family Attached	1	30'	3,250 sf	0.4 FAR
Duplex	2	60'	6,500 sf	0.4 FAR
Other Allowed Uses	—	60'	6,500 sf	0.4 FAR
Accessory Allowed Use	Lot Size			Size (max.)
Accessory Dwelling Unit	3,500 to 4,999 sf			750 sf
Accessory Dwelling Unit	5,000 to 6,999 sf			975 sf
Accessory Dwelling Unit	7,000 sf or greater			1,100 sf
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 3.				
Accessory Dwelling Unit size counts towards the principal use's FAR limit.				
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.				

Building Placement Diagram



Building Form Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line
- Buildable Area
- Building Footprint

Table 23-4D-2150(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25' ¹	15' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure that is adjacent to an alley.

(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

Table 23-4D-2150(C) Building Form

(1) Building Articulation New Construction

Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.

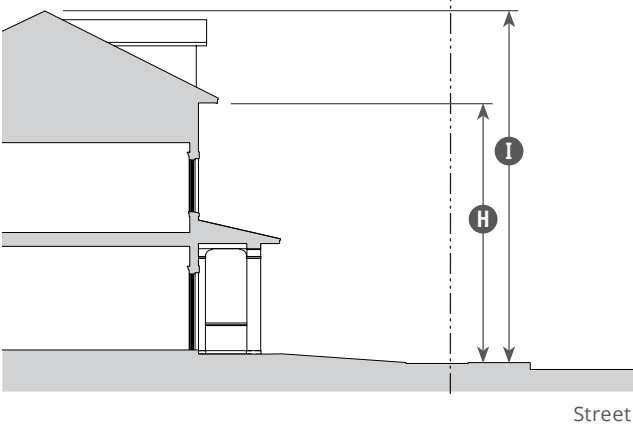
(2) Facade(s), All Stories

Facade Length without Articulation (max.)	36'	E
Articulation length (min.)	10'	F
Articulation depth (min.)	4'	G

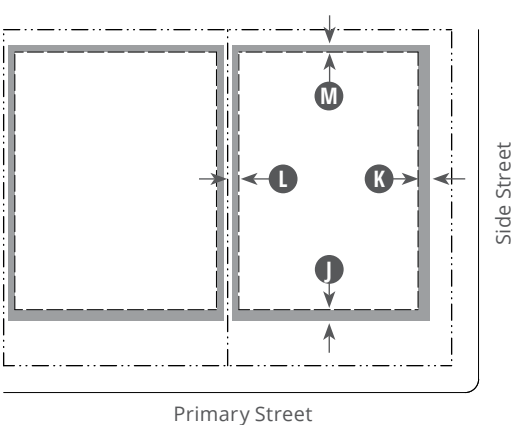
Key for Tables

- A = Allowed
- = Not Allowed
- N/R = No Requirement

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-2150(D) Height

(1) Primary and Accessory Buildings

To Top Plate (max.)	22'	H
Overall (max.)	32'	I

(2) Accessory Structure

Overall (max.)	12'
----------------	-----

Table 23-4D-2150(E) Encroachments

(1) Encroachment Type	Front (max.) J	Side St. (max.) K	Side (max.) L	Rear (max.) M
Private Frontage	5'	5'	—	—
Steps and/or ramps to Building Entrance	5'	5'	— ¹	—
Architectural Features	3'	3'	3'	3'
Porch, Stoop, or Uncovered Steps ²	—	5'	—	—
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

Table 23-4D-2150(E) Encroachments (continued)

¹Where side setback is 10' or more, a 5' max. encroachment is allowed.

²3' max. above ground.

(2) Height Encroachment

The following height encroachment types may encroach above the top plate maximum up to the overall maximum.

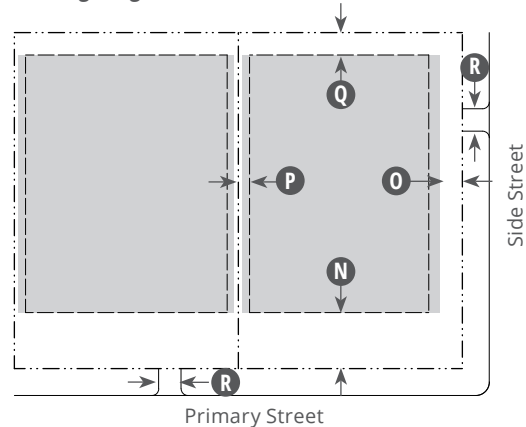
(a) Height Encroachment Type	Encroachment Height above top plate (max.)	Encroachment Length (max.)
Gable End	11'	30', within 60' of Front Lot Line
Dormers	11'	15' combined on each building

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Key for Tables

- A = Allowed
- = Not Allowed
- N/R = No Requirement

Parking Diagram



Key for Diagrams

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-2150(F) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Porch: Projecting	A	A	23-4E-1040
Porch: Engaged	A	A	23-4E-1050
Stoop	—	A	23-4E-1060

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

(2) Pedestrian Access

All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.

Table 23-4D-2150(G) Parking

(1) Parking Requirements

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Setback	Front N	Side St. O	Side P	Rear Q
Minimum	Varies ¹	10'	2'	10'

(3) Parking Driveway

Width	10' max.	R
-------	----------	---

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Garage doors along the front facade of the primary building must occupy no more than one-third the width of the front facade.

¹ Required parking space(s) must not be located in front of the front facade of the building.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-2150(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	45% ²	23-3D-3
Building Cover	40%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		

²The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

(2) Frontyard Impervious Cover
This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.
(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;
(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or
(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.
(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.
(e) A motor vehicle may only be parked or stored on driveway or paved parking space.

Table 23-4D-2150(I) Open Space	
(1) Open Space Type	Size (min.)
Personal Open Space	None required
Common Open Space	5% gross site area ³
Civic Open Space	
Sites <4 acres	None
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

³For sites 2 acres or larger see Section 23-4C-1030 (Common Open Space). Otherwise none required

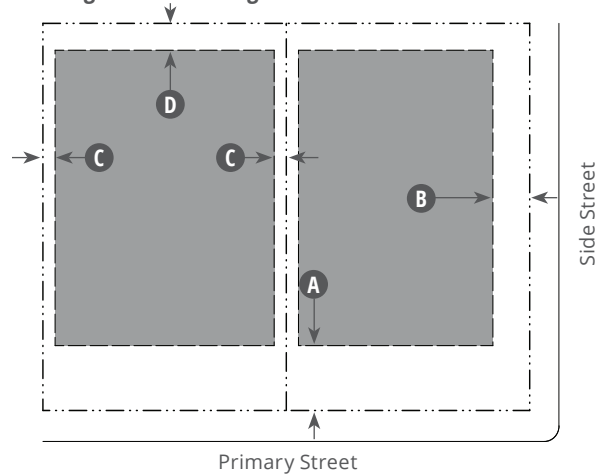
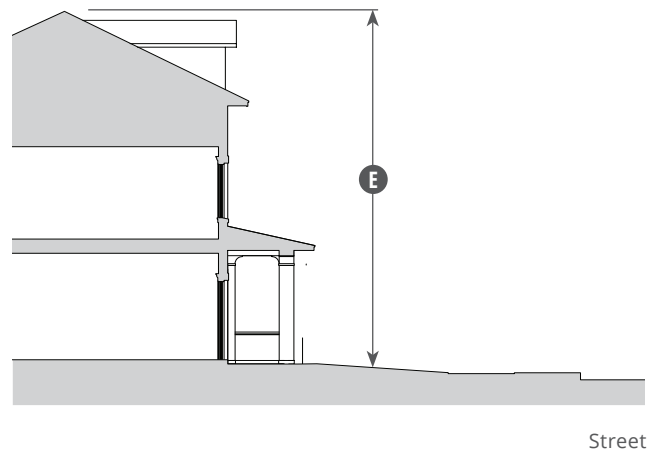
23-4D-2160 Residential 3B (R3B) Zone

- (A) **Purpose.** Residential 3B (R3B) zone is meant for areas that are accessible to mixed use and main street zones by walking or biking.
- (B) **Overview.** This zone allows detached housing, duplexes, and accessory dwelling units. It can be summarized as:
 - (1) not eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned residential 3B shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking);
 - (6) Table (F) (Impervious Cover); and
 - (7) Table (G) (Open Space).

A large yellow circle is positioned on the right side of the page. Inside the circle, the text "R3B" is written in a large, white, sans-serif font, oriented vertically.

Table 23-4D-2160(A) Lot Size and Intensity

Allowed Use	Lot		
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)
	Base Standard		
Single-Family	1	45'	5,000 sf
Single-Family Attached	1	25'	2,500 sf
Duplex	2	45'	5,000 sf
Other Allowed Uses	—	45'	5,000 sf
Accessory Allowed Use	Lot Size		Size (max.)
Accessory Dwelling Unit	3,500 to 4,999 sf		750 sf
Accessory Dwelling Unit	5,000 to 6,999 sf		975 sf
Accessory Dwelling Unit	7,000 sf or greater		1,100 sf
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 3.			
Accessory Dwelling Unit size counts towards the principal use's FAR limit.			
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.			

Building Placement Diagram**Building Height Diagram****Key for Diagrams**

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

Table 23-4D-2160(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front ¹ A	Side St. B	Side C	Rear D
Minimum	25' ¹	15' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure with a maximum height of fifteen feet.

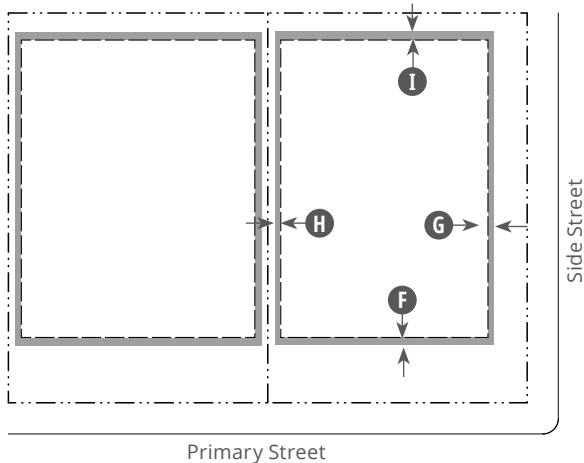
(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

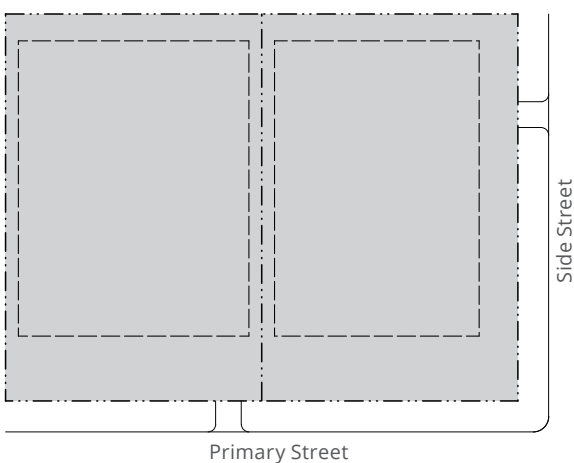
Table 23-4D-2160(C) Height

(1) Primary and Accessory Building	
Overall (max.)	35' E
(2) Accessory Structure	
Overall (max.)	12'

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment ■ Parking Area

Table 23-4D-2160(D) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).
Landscaping may be located in a required setback.
Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-2160(E) Parking

See Section 23-4D-2040 (Parking Requirements) for standards.

(1) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Table 23-4D-2160(F) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	45% ³	23-3D-3
Building Cover	40%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

³ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

(2) Frontyard Impervious Cover

This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.

(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;

(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or

(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.

(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.

(e) A motor vehicle may only be parked or stored on driveway or paved parking space.

Table 23-4D-2160(G) Open Space

(1) Open Space Type	Size (min.)
Personal Open Space	None required
Common Open Space	5% gross site area ⁴
Civic Open Space	
Sites <4 acres	None
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

⁴ For sites 2 acres or larger see Section 23-4C-1030 (Common Open Space). Otherwise none required

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23-4D-2170 Residential 3C (R3C) Zone

- (A) **Purpose.** Residential 3C (R3C) zone is meant for areas that are accessible to mixed use and main street zones by walking or biking.
- (B) **Overview.** This zone allows detached housing and duplexes with accessory dwelling units. It can be summarized as:
 - (1) not eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned residential 3C shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Frontages)
 - (7) Table (G) (Parking);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).

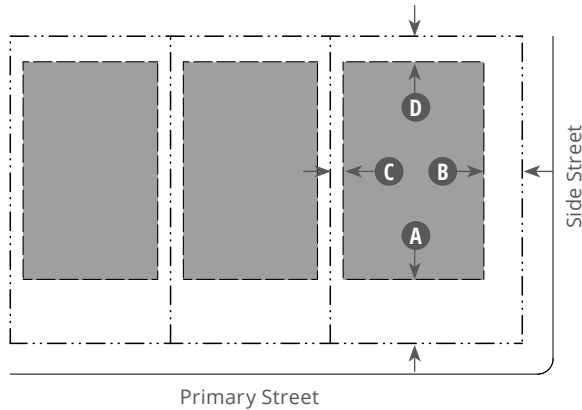


R3C

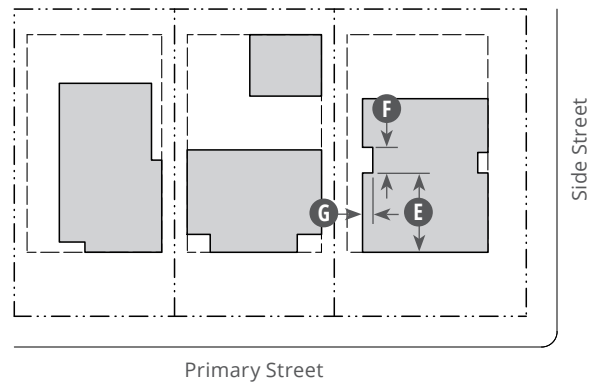
Table 23-4D-2170(A) Lot Size and Intensity

Allowed Use	Lot			Building
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)	Size (max.)
				Base Standard The less restrictive shall apply between:
Single-Family	1	40'	5,000 sf	0.4 FAR or 2,300 sf
Single-Family Attached	1	25'	2,500 sf	0.4 FAR or 1,150 sf
Duplex	2	45'	5,000 sf	0.4 FAR or 2,300 sf
Cottage Court	3	50'	5,000 sf	0.6 FAR
Cottage Court	6	100'	10,000 sf	0.6 FAR
Other Allowed Uses	—	40'	5,000 sf	0.4 FAR
Accessory Allowed Use	Lot Size			Size (max.)
Accessory Dwelling Unit	3,500 to 4,999 sf			750 sf
Accessory Dwelling Unit	5,000 to 6,999 sf			975 sf
Accessory Dwelling Unit	7,000 sf or greater			1,100 sf
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 3.				
Accessory Dwelling Unit size counts towards the principal use's FAR limit.				
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.				

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
■ Buildable Area

--- Building Setback Line

■ Building Footprint

Table 23-4D-2170(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25' ¹	15' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure that is adjacent to an alley.

(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

Table 23-4D-2170(C) Building Form

(1) Overall Building Envelope

Width (max.) N/R

(2) Building Articulation New Construction

Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.

(3) Facade(s), All Stories

Facade Length without Articulation (max.)	36'	E
Articulation Length (min.)	10'	F
Articulation Depth (min.)	4'	G

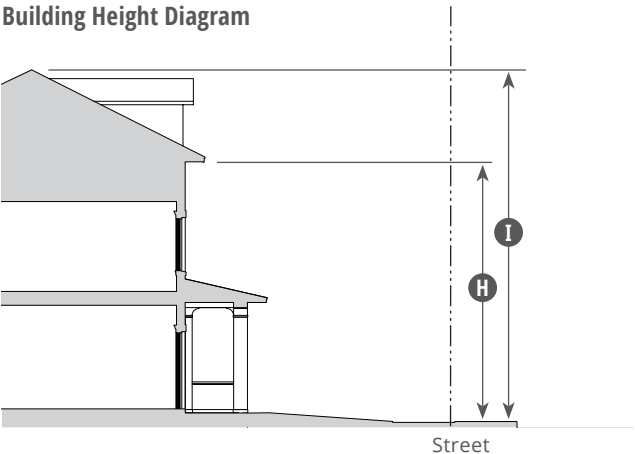
Key for Tables

A = Allowed

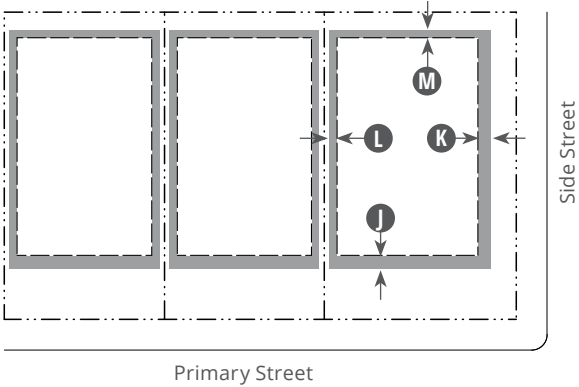
— = Not Allowed

N/R = No Requirement

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Encroachment

Table 23-4D-2170(D) Height

(1) Primary and Accessory Building

To Top Plate (max.)	22'	H
Overall (max.)	32'	I

(2) Accessory Structure

Overall (max.)	12'
----------------	-----

Table 23-4D-2170(E) Encroachments

(1) Encroachment Type	Front (max.) J	Side St. (max.) K	Side (max.) L	Rear (max.) M
Private Frontage	5'	5'	—	—
Steps and/or ramps to Building Entrance	5'	5'	—	—
Architectural Features	3'	3'	3'	3'
Porch, Stoop, or Uncovered Steps ¹	—	5'	—	—
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ 3' max above ground.

Table 23-4D-2170(E) Encroachments (continued)

(2) Height Encroachment

The following height encroachment types may encroach above the top plate maximum up to the overall maximum.

(a) Height Encroachment Type	Encroachment Height above top plate (max.)	Encroachment Length (max.)
Gable End	11'	30', within 60' of Front Lot Line
Dormers	11'	15' combined on each building

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-2170(F) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Porch: Projecting	A	A	23-4E-1040
Porch: Engaged	A	A	23-4E-1050
Stoop	—	A	23-4E-1060

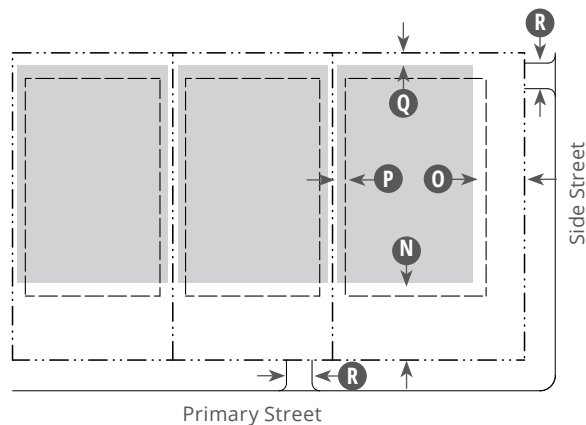
For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

(2) Pedestrian Access

All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.

Key for Tables

- A = Allowed
- = Not Allowed
- N/R = No Requirement

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-2170(G) Parking**(1) Parking Requirements**

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Setback	Front N	Side St. O	Side P	Rear Q
Minimum	30' ¹	20'	2'	5'

(3) Parking Driveway

Width 10' max. ^R

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Garage doors along the front facade of the primary building must occupy no more than one-third the width of the front facade.

¹ Required parking space(s) must not be located in front of the front facade of the building.

Table 23-4D-2170(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	45% ²	23-3D-3
Building Cover	40%	

² The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

(2) Frontyard Impervious Cover

This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.

(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;

(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or

(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.

(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.

(e) A motor vehicle may only be parked or stored on driveway or paved parking space.

Table 23-4D-2170(I) Open Space			
(1) Open Space Type	Area per Unit (min.)		
Personal ³	100 sf		
(2) Open Space Location	Width (min.)	Depth (min.)	Area (min.)
Ground level	10'	10'	100 sf
Above ground	5'	5'	50 sf
Personal open space requirement may be met by ground floor personal open space, upper story balcony, or roof deck.			
Personal open space requirements must not be met by open space provided in required front or side street setbacks.			
³ The Cottage Court Use has additional open space standards. See Section 23-4E-6160 (Cottage Court).			

23-4D-2180 Residential 3D (R3D) Zone

- (A) **Purpose.** Residential 3D (R3D) zone is meant for areas that are accessible to mixed use and main street zones by walking or biking.
- (B) **Overview.** This zone allows detached housing and duplexes; and accessory dwelling units are allowed on some lots. It can be summarized as:
 - (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects of this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned residential 3D shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Frontages)
 - (7) Table (G) (Parking);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).

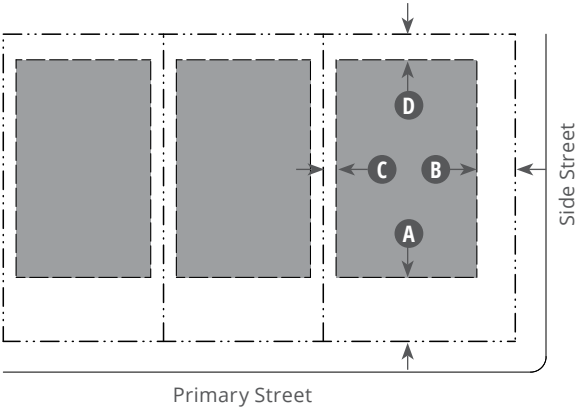


R3D

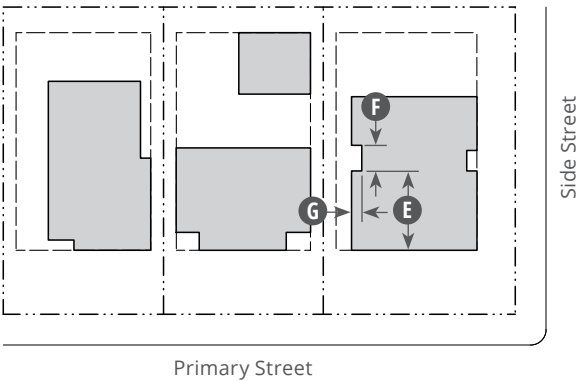
Table 23-4D-2180(A) Lot Size and Intensity

Allowed Use	Lot			Building
	Principal Dwelling Units per Lot (max.)	Width (min.)	Area (min.)	Size (max.)
				Base Standard The less restrictive shall apply between:
Single-Family	1	40'	5,000 sf	0.4 FAR or 2,300 sf
Single-Family Attached	1	25'	2,500 sf	0.4 FAR or 1,150 sf
Duplex	2	45'	5,000 sf	0.4 FAR or 2,300 sf
Cottage Court	3	50'	5,000 sf	0.6 FAR
Cottage Court	6	100'	10,000 sf	0.6 FAR
Other Allowed Uses	—	40'	5,000 sf	0.4 FAR
Accessory Allowed Use	Lot Size			Size (max.)
Accessory Dwelling Unit	3,500 to 4,999 sf			750 sf
Accessory Dwelling Unit	5,000 to 6,999 sf			975 sf
Accessory Dwelling Unit	7,000 sf or greater			1,100 sf
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 3.				
Accessory Dwelling Unit size counts towards the principal use's FAR limit.				
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.				

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
■ Buildable Area

--- Building Setback Line ■ Building Footprint

Table 23-4D-2180(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	15' ¹	15' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure that is adjacent to an alley.

(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

Table 23-4D-2180(C) Building Form

(1) Building Articulation New Construction

Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.

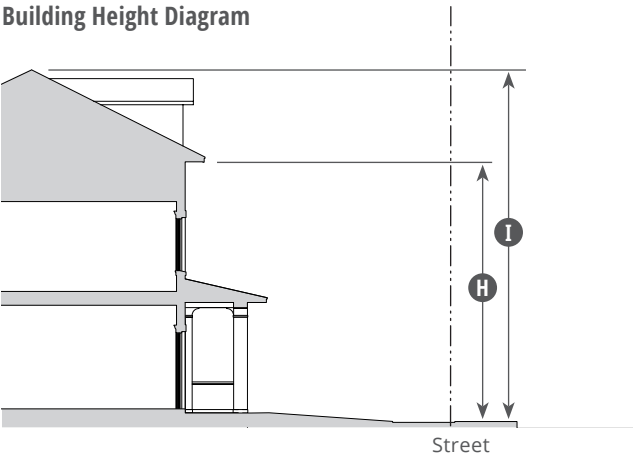
(2) Facade(s), All Stories

Facade Length without Articulation (max.)	36'	E
Articulation Length (min.)	10'	F
Articulation Depth (min.)	4'	G

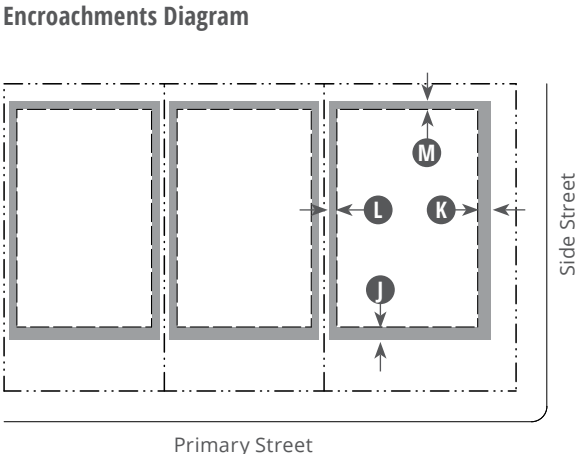
Key for Tables

A = Allowed — = Not Allowed N/R = No Requirement

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-2180(D) Height

(1) Primary and Accessory Building

To Top Plate (max.)	22'	H
Overall (max.)	32'	I

(2) Accessory Structure

Overall (max.)	12'
----------------	-----

Table 23-4D-2180(E) Encroachments

(1) Encroachment Type	Front (max.) J	Side St. (max.) K	Side (max.) L	Rear (max.) M
Private Frontage	5'	5'	—	—
Steps and/or ramps to Building Entrance	5'	5'	—	—
Architectural Features	3'	3'	3'	3'
Porch, Stoop, or Uncovered Steps ¹	—	5'	—	—
Fountain	13'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.
Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

Table 23-4D-2180(E) Encroachments (continued)

(2) Height Encroachment

The following height encroachment types may encroach above the top plate maximum up to the overall maximum.

(a) Height Encroachment Type	Encroachment Height above Top Plate (max.)	Encroachment Length (max.)
Gable End	11'	30', within 60' of Front Lot Line
Dormers	11'	15' combined on each building

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-2180(F) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Porch: Projecting	A	A	23-4E-1040
Porch: Engaged	A	A	23-4E-1050
Stoop	—	A	23-4E-1060

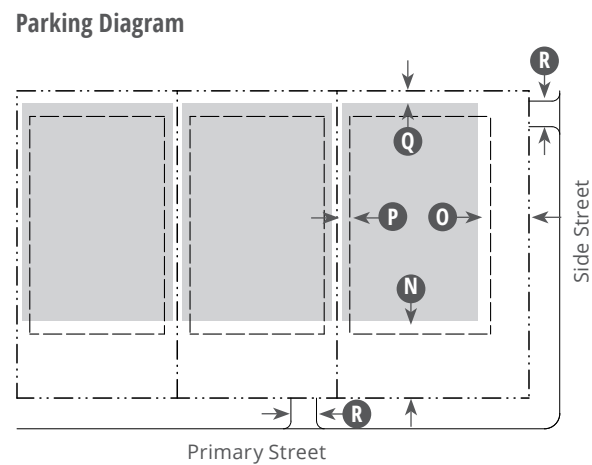
For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

(2) Pedestrian Access

All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.

Key for Tables

- A = Allowed
- = Not Allowed
- N/R = No Requirement



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Parking Area

Table 23-4D-2180(G) Parking

(1) Parking Requirements

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Setback	Front	Side St.	Side	Rear
	N	O	P	Q
Minimum	30' ¹	20'	2'	5'

(3) Parking Driveway

Width 10' max. R

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Garage doors along the front facade of the primary building must occupy no more than one-third the width of the front facade.

¹ Required parking space(s) must not be located in front of the front facade of the building.

Table 23-4D-2180(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	45% ²	23-3D-3
Building Cover	40%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

² The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

(2) Frontyard Impervious Cover

This section applies to a single-family residential use, a duplex residential use, or a single-family attached use.

(a) For a lot with a width greater than 45 feet, then the impervious cover in a front yard may not exceed 40 percent;

(b) For a lot with a width not exceeding 45 feet, then the impervious cover in a front yard may not exceed 50 percent; or

(c) Subsection (a) and (b) do not apply to lots if the lot width is less than 30 feet.

(d) The director may waive Subsection (a) or (b) if the director determines backing a motor vehicle onto the adjacent roadway is unsafe and that a circular driveway or turnaround in the front yard is required.

(e) A motor vehicle may only be parked or stored on driveway or paved parking space.

Table 23-4D-2180(I) Open Space			
(1) Open Space Type	Area per Unit (min.)		
Personal ³	100 sf		
(2) Open Space Location	Width (min.)	Depth (min.)	Area (min.)
Ground level	10'	10'	100 sf
Above ground	5'	5'	50 sf
Personal open space requirement may be met by ground floor personal open space, upper story balcony, or roof deck.			
Personal open space requirements must not be met by open space provided in required front or side street setbacks.			
³ The Cottage Court Use has additional open space standards. See Section 23-4E-6160 (Cottage Court).			

23-4D-2190 Residential 4A (R4A) Zone

- (A) **Purpose.** Residential 4A (R4A) zone is meant to provide a transition between lower-intensity and higher-intensity residential zones in areas that are accessible to mixed use and main street zones by walking or biking.
- (B) **Overview.** This zone allows a variety of detached and attached housing in house-scale buildings with accessory dwelling units. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height stepbacks or additional setbacks.
- (C) **Requirements.** A lot zoned R4A shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Frontages);
 - (7) Table (G) (Parking);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



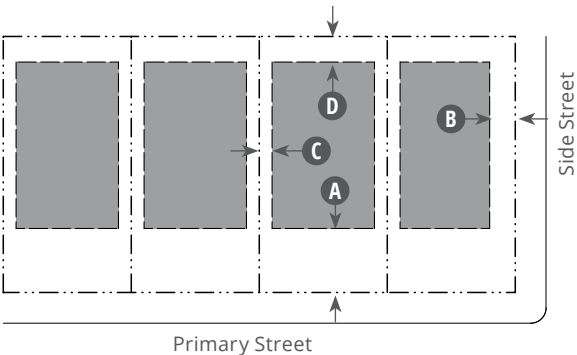
R4A

Table 23-4D-2190(A) Lot Size and Intensity

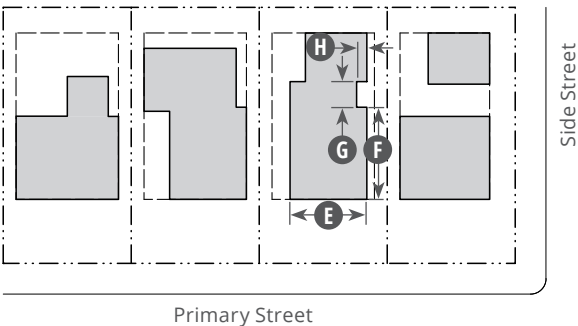
Allowed Use	Lot				Building	
	Principal Dwelling Units per Lot (max.)				Size (max.)	
	Base Standard	AHBP Bonus ¹	Width (min.)	Area (min.)	Base Standard The less restrictive shall apply between:	AHBP Bonus ¹
Single-Family	1	+0	35'	3,500 sf	0.4 FAR or 2,300 sf	+0 FAR
Single-Family Attached	1	+0	25'	2,000 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	2	+0	40'	4,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Multi-Family	4	+4	45'	6,000 sf	0.6 FAR	+0.2 FAR
Cottage Court	3	+0	50'	5,000 sf	0.6 FAR	+0 FAR
Cottage Court	6	+0	100'	10,000 sf	0.6 FAR	+0 FAR
Other Allowed Uses	—	+0	35'	3,500 sf	0.4 FAR	+0 FAR
Accessory Allowed Use	Lot Size				Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf				750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf				975 sf	
Accessory Dwelling Unit	7,000 sf or greater				1,100 sf	
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 4.						
Accessory Dwelling Unit size counts towards the principal use's FAR limit.						
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.						

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
■ Buildable Area

--- Building Setback Line
■ Building Footprint

Table 23-4D-2190(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25' ¹	15' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure that is adjacent to an alley.

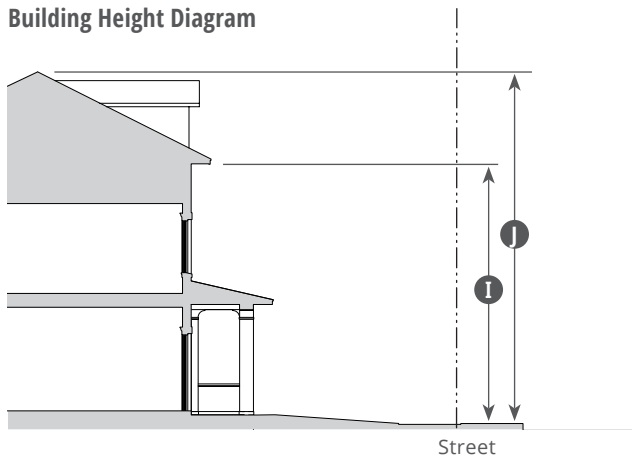
(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

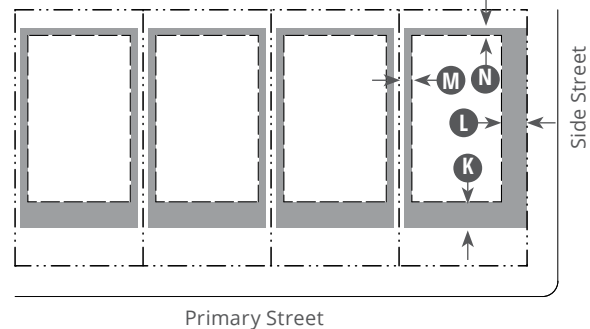
Table 23-4D-2190(C) Building Form

(1) Overall Building Envelope		
Width (max.)	60'	E
(2) Building Articulation New Construction		
Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.		
(3) Facade(s), All Stories		
Facade Length without Articulation (max.)	48'	F
Articulation Length (min.)	10'	G
Articulation Depth (min.)	4'	H

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-2190(D) Height

(1) Primary and Accessory Building

To Top Plate (max.)	22'	I
Overall (max.)	32'	J

(3) Accessory Structure

Overall (max.)	12'
----------------	-----

Table 23-4D-2190(E) Encroachments

(1) Encroachment Type	Front (max.) K	Side St. (max.) L	Side (max.) M	Rear (max.) N
Private Frontage	10'	10'	—	—
Steps and/or ramps to Building Entrance	5'	5'	—	—
Architectural Features	3'	3'	3'	3'
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

Table 23-4D-2190(E) Encroachments (continued)

(2) Height Encroachment

The following height encroachment types may encroach above the top plate maximum up to the overall maximum.

(a) Height Encroachment Type	Encroachment Height above top plate (max.)	Encroachment Length (max.)
Gable End	11'	30', within 60' of Front Lot Line
Dormers	11'	15' combined on each building

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-2190(F) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Porch: Projecting	A	A	23-4E-1040
Porch: Engaged	A	A	23-4E-1050
Stoop	A	A	23-4E-1060

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

(2) Pedestrian Access

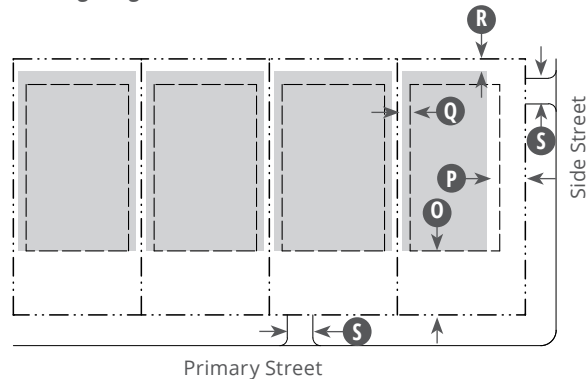
All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-2190(G) Parking**(1) Parking Requirements**

See Section 23-4D-2040 (Parking Requirements).

(2) Setback	Front O	Side St. P	Side Q	Rear R
Minimum	25' ¹	15'	2'	5'

(3) Parking Driveway

Width 10' max. S

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Garage doors along the front facade of the primary building must occupy no more than one-third the width of the front facade.

¹ Required parking space(s) must not be located in front of the front facade of the building.

Table 23-4D-2190(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	45% ²	23-3D-3
Building Cover	40%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

² The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-2190(I) Open Space

(1) Open Space Type	Area per Unit (min.)		
Personal ³	100 sf		
(2) Area Requirements	Width (min.)	Depth (min.)	Area (min.)
Ground level	10'	10'	100 sf
Above ground	5'	5'	50 sf

Personal open space requirement may be met by ground floor personal open space, upper story balcony, or roof deck.

Personal open space requirements must not be met by open space provided in required front or side street setbacks.

³ The Cottage Court Use has additional open space standards. See Section 23-4E-6160 (Cottage Court).

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23-4D-2200 Residential 4B (R4B) Zone

- (A) **Purpose.** Residential 4B (R4B) zone is intended to provide a transition between lower-intensity and higher-intensity residential zones. It is meant for areas that are accessible to mixed use and main street zones by walking or biking.
- (B) **Overview.** This zone allows a variety of detached and attached housing in house-scale buildings with shallower front setbacks and accessory dwelling units. It can be summarized as:
- (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height setbacks or additional setbacks.
- (C) **Requirements.** A lot zoned residential 4B shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Frontages)
 - (7) Table (G) (Parking);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



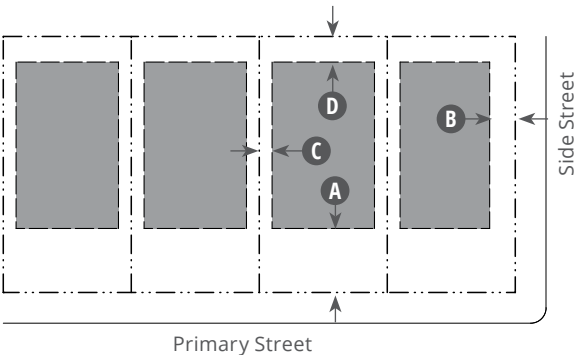
R4B

Table 23-4D-2200(A) Lot Size and Intensity

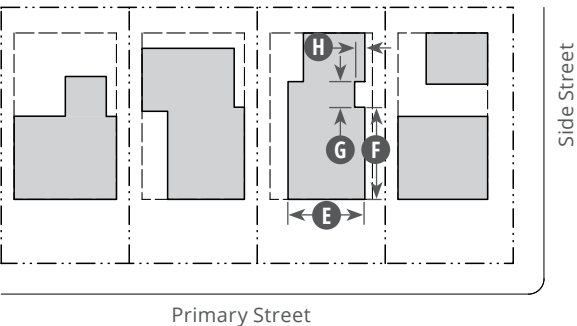
Allowed Use	Lot				Building	
	Principal Dwelling Units per Lot (max.)				Size (max.)	
	Base Standard	AHBP Bonus ¹	Width (min.)	Area (min.)	Base Standard The less restrictive shall apply between:	AHBP Bonus ¹
Single-Family	1	+0	35'	3,500 sf	0.4 FAR or 2,300 sf	+0 FAR
Single-Family Attached	1	+0	25'	2,000 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	2	+0	40'	4,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Multi-Family	4	+4	45'	6,000 sf	0.6 FAR	+0.2 FAR
Cottage Court	3	+0	50'	5,000 sf	0.6 FAR	+0 FAR
Cottage Court	6	+0	100'	10,000 sf	0.6 FAR	+0 FAR
Other Allowed Uses	—	+0	35'	3,500 sf	0.4 FAR	+0 FAR
Accessory Allowed Use	Lot Size				Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf				750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf				975 sf	
Accessory Dwelling Unit	7,000 sf or greater				1,100 sf	
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 4.						
Accessory Dwelling Unit size counts towards the principal use's FAR limit.						
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.						

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
■ Buildable Area

--- Building Setback Line ■ Building Footprint

Table 23-4D-2200(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	15' ¹	15' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure that is adjacent to an alley.

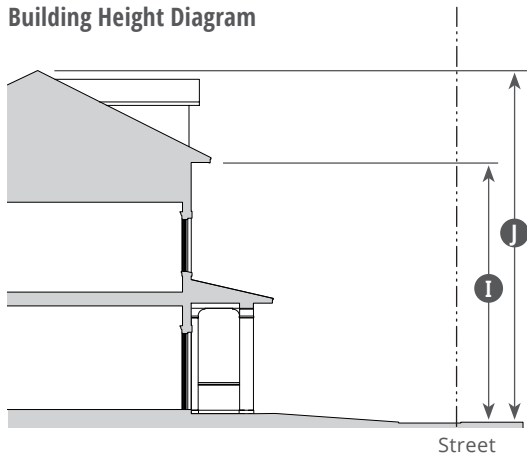
(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

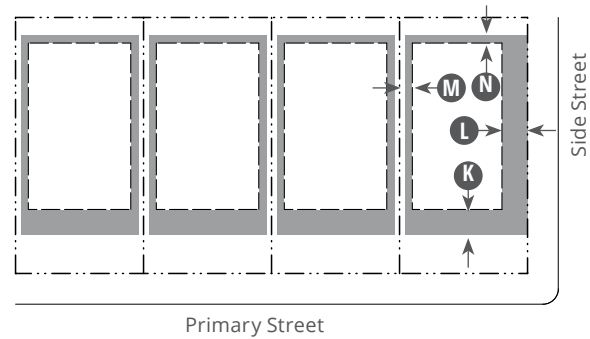
Table 23-4D-2200(C) Building Form

(1) Overall Building Envelope		
Width (max.)	60'	E
(2) Building Articulation New Construction		
Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.		
(3) Facade(s), All Stories		
Facade Length without Articulation (max.)	48'	F
Articulation Length (min.)	10'	G
Articulation Depth (min.)	4'	H

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-2200(D) Height

(1) Primary and Accessory Building	Base Standard	AHBP Bonus ¹	
To Top Plate (max.)	22'	+0	I
Overall (max.)	32'	+0	J
(2) Accessory Structure			
Overall (max.)	12'		

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Table 23-4D-2200(E) Encroachments

(1) Encroachment Type	Front (max.) K	Side St. (max.) L	Side (max.) M	Rear (max.) N
Private Frontage	10'	10'	—	—
Steps and/or ramps to Building Entrance	5'	5'	—	—
Architectural Features	3'	3'	3'	3'
Porch, Stoop, or Uncovered Steps ²	—	5'	—	—
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments). Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

Table 23-4D-2200(E) Encroachments (continued)

² 3' max above ground.

(2) Height Encroachment

The following height encroachment types may encroach above the top plate maximum up to the overall maximum.

(a) Height Encroachment Type	Encroachment Height above top plate (max.)	Encroachment Length (max.)
Gable End	11'	30', within 60' of Front Lot Line
Dormers	11'	15' combined on each building

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-2200(F) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Porch: Projecting	A	A	23-4E-1040
Porch: Engaged	A	A	23-4E-1050
Stoop	A	A	23-4E-1060

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

(2) Pedestrian Access

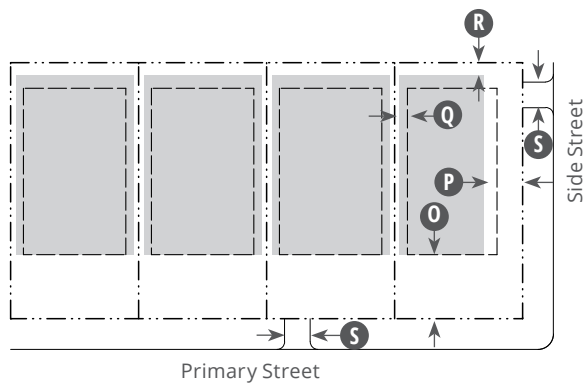
All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-2200(G) Parking**(1) Parking Requirements**

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Setback	Front O	Side St. P	Side Q	Rear R
Minimum	25' ¹	15'	2'	5'

(3) Parking Driveway

Width 10' max. S

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Garage doors along the front facade of the primary building must occupy no more than one-third the width of the front facade.

¹ Required parking space(s) must not be located in front of the front facade of the building.

Table 23-4D-2200(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	45% ²	23-3D-3
Building Cover	40%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

² The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-2200(I) Open Space

(1) Open Space Type	Area per Unit (min.)		
Personal ³	100 sf		
(2) Area Requirements	Width (min.)	Depth (min.)	Area (min.)
Ground level	10'	10'	100 sf
Above ground	5'	5'	50 sf

Personal open space requirement may be met by ground floor personal open space, upper story balcony, or roof deck.

Personal open space requirements must not be met by open space provided in required front or side street setbacks.

³ The Cottage Court Use has additional open space standards. See Section 23-4E-6160 (Cottage Court).

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23-4D-2210 Residential 4C (R4C) Zone

- (A) **Purpose.** Residential 4C (R4C) zone is meant for areas with good street network connectivity and is intended to provide a transition between lower-intensity or medium-intensity residential zones and higher-intensity residential zones or mixed use and main street zones.
- (B) **Overview.** This zone allows a variety of detached and attached housing in house scale and rowhouse buildings with accessory dwelling units. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone do not require height setbacks or additional setbacks.
- (C) **Requirements.** A lot zoned Residential 4C zone shall comply with the requirements established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Frontages);
 - (7) Table (G) (Parking);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



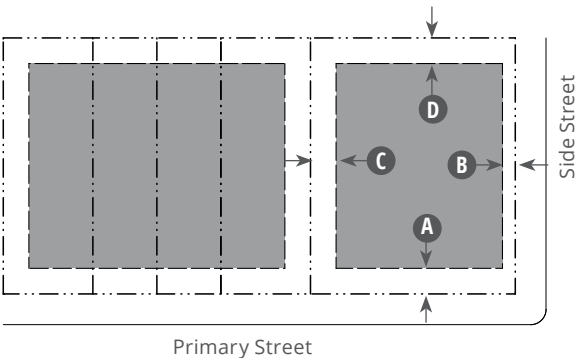
R4C

Table 23-4D-2210(A) Lot Size and Intensity

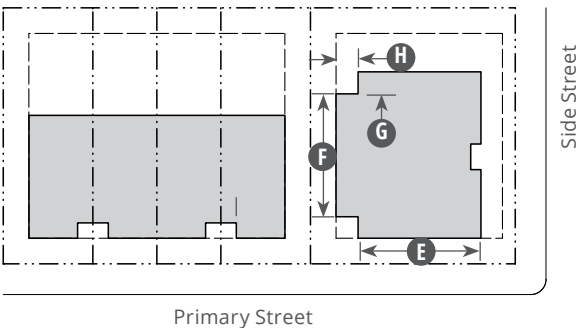
Allowed Use	Lot				Building	
	Principal Dwelling Units per Lot (max.)			Area (min.)	Size (max.)	
	Base Standard	AHBP Bonus ¹	Width (min.)		The less restrictive shall apply between:	AHBP Bonus ¹
Single-Family	1	+0	35'	3,500 sf	0.4 FAR or 2,300 sf	+0 FAR
Single-Family Attached	1	+0	25'	2,000 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	2	+0	40'	4,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Multi-Family	4	+4	45'	6,000 sf	0.6 FAR	+0.2 FAR
Cottage Court	3	+0	50'	5,000 sf	0.6 FAR	+0 FAR
Cottage Court	6	+0	100'	10,000 sf	0.6 FAR	+0 FAR
Townhouse	1	+0	18'	1,800 sf	0.4 FAR or 1,500 sf	+0 FAR
Other Allowed Uses	—	+0	35'	3,500 sf	0.4 FAR	+0 FAR
Accessory Allowed Use	Lot Size				Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf				750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf				975 sf	
Accessory Dwelling Unit	7,000 sf or greater				1,100 sf	
Only one Accessory Dwelling Unit may be built and the total dwelling units per lot shall not exceed 4.						
Accessory Dwelling Unit size counts towards the principal use's FAR limit.						
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.						

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
--- Building Setback Line
■ Buildable Area

--- Building Setback Line
■ Building Footprint

Table 23-4D-2210(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	15' ¹	15' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure that is adjacent to an alley.

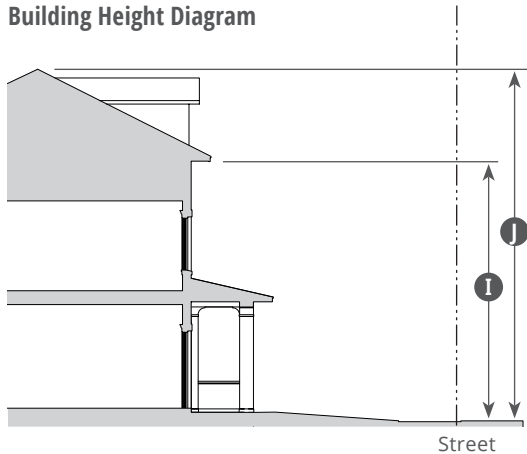
(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

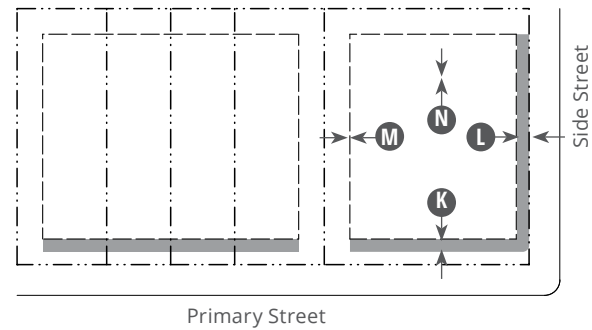
Table 23-4D-2210(C) Building Form

(1) Overall Building Envelope		
Width (max.)	80'	E
(2) Building Articulation New Construction		
Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.		
(3) Facade(s), All Stories		
Facade Length without Articulation (max.)	48'	F
Articulation Length (min.)	10'	G
Articulation Depth (min.)	4'	H

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-2210(D) Height

(1) Primary and Accessory Building	Base Standard	AHBP Bonus ¹	
To Top Plate (max.)	22'	+0	I
Overall (max.)	32'	+0	J

(2) Accessory Structure

Overall (max.)	12'
----------------	-----

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Table 23-4D-2210(E) Encroachments

(1) Encroachment Type	Front (max.) K	Side St. (max.) L	Side (max.) M	Rear (max.) N
Private Frontage	10'	10'	—	—
Steps and/or ramps to Building Entrance	5'	5'	—	—
Architectural Features	3'	3'	3'	3'
Porch, Stoop, or Uncovered Steps ²	—	5'	—	—
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

Table 23-4D-2210(E) Encroachments (continued)

² 3' max above ground.

(2) Height Encroachment

The following height encroachment types may encroach above the top plate maximum up to the overall maximum.

(a) Height Encroachment Type	Encroachment Height above top plate (max.)	Encroachment Length (max.)
Gable End	11'	30', within 60' of Front Lot Line
Dormers	11'	15' combined on each building

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-2210(F) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Porch: Projecting	A	A	23-4E-1040
Porch: Engaged	A	A	23-4E-1050
Stoop	A	A	23-4E-1060

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

(2) Pedestrian Access

All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.

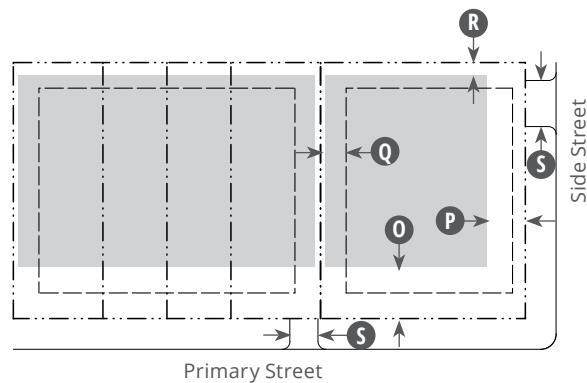
Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Parking Area

Table 23-4D-2210(G) Parking

(1) Parking Requirements

See Section 23-4D-2040 (Parking Requirements) for standards.

(2) Setback	Front	Side St.	Side	Rear
	O	P	Q	R
Minimum	25' ¹	15'	2'	5'

(3) Parking Driveway

Width	10' max.	S
-------	----------	---

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Garage doors along the front facade of the primary building must occupy no more than one-third the width of the front facade.

¹ Required parking space(s) must not be located in front of the front facade of the building.

Table 23-4D-2210(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	45% ²	23-3D-3
Building Cover	40%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

² The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-2210(I) Open Space

(1) Open Space Type	Area per Unit (min.)		
Personal ³	100 sf		
(2) Area Requirements	Width (min.)	Depth (min.)	Area (min.)
Ground level	10'	10'	100 sf
Above ground	5'	5'	50 sf

Personal open space requirement may be met by ground floor personal open space, upper story balcony, or roof deck.

Personal open space requirements must not be met by open space provided in required front or side street setbacks.

³ The Cottage Court Use has additional open space standards. See Section 23-4E-6160 (Cottage Court).

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Division 23-4D-3: Residential Multi-Unit Zones

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23-4D-3010 Purpose

This division establishes the requirements for land use and building form for residential based zoning areas, and reflects the community's vision to implement the Comprehensive Plan. These requirements are intended to ensure that proposed development is compatible with existing development and produces an environment of desirable character, consistent with the Comprehensive Plan and any applicable area plan.

23-4D-3020 Applicability

- (A) The requirements in division apply to a site zoned within the residential multi-unit zone.
- (B) The uses allowed in residential multi-unit zones are subject to requirements of this division and any applicable regulations within Article 23-4E (Supplemental to Zones).

- (C) In addition to the requirements included within this division and Article 23-4E (Supplemental to Zones), a site or use may also be subject to the following provisions in this Title:
- (1) Article 23-3C (Urban Forest Protection and Replenishment);
 - (2) Article 23-3D (Water Quality);
 - (3) Article 23-3E (Affordable Housing);
 - (4) Division 23-4E-2 (Outdoor Lighting);
 - (5) Division 23-4E-7 (Additional General Standards);
 - (6) Section 23-4E-8060 (Building Design);
 - (7) Chapter 23-8 (Signs); and
 - (8) Article 23-10E (Drainage).
- (D) The provisions identified in Subsection (C) may not be a complete list of requirements that apply to a lot or use. Failure to include a specific provision in Subsection (C) or anywhere else in this division does not exempt the lot or use from complying with the provision.

23-4D-3030 Allowed Land Uses and Permit Requirements

- (A) **Allowed Land Uses.** Table (A) (Allowed Uses in Residential Multi-Unit Zones) establishes the land uses allowed in each residential multi-unit zone.
- (B) **Permit Required.** If Table (A) (Allowed Uses in Residential Multi-Unit Zones) identifies a permit requirement for the land use, a person must obtain a permit before the use is allowed.
- (C) **Additional Requirements.** A person shall comply with any additional requirements identified in Table (A) (Allowed Uses in Residential Multi-Unit Zones).
- (D) **Uses Not Allowed.** If a land use is marked "N/A" or is not included in Table (A) (Allowed Uses in Residential Multi-Unit Zones), it is not allowed in a residential multi-unit zone.

Table 23-4D-3030(A) Allowed Uses in Residential Multi-Unit Zones RM1A–MH

Use Type	Specific to Use Requirements	RM1A	RM1B	RM2A	RM2B	RM3A	RM4A	RM5A	MH
(1) Residential									
Accessory Dwelling Unit - Residential	23-4E-6030	P	P	P	P	P	P	P	—
Bed and Breakfast	23-4E-6090	P	P	P	CUP	P	CUP	P	—
Cooperative Housing		MUP	MUP	P	P	P	P	P	—
Duplex	23-4E-6170	P	P	—	—	—	—	—	—
Group Residential		CUP	CUP	MUP	—	P	—	P	—
Home Occupations	23-4E-6200	P	P	P	P	P	P	P	P
Live/Work	23-4E-6210	P	P	P	P	P	P	P	—
Manufactured Home		—	—	—	—	—	—	—	P
Multi-Family	23-4E-6250	P	P	P	P	P	P	P	—
Senior/Retirement Housing									
≤12	23-4E-6330	P	P	P	P	P	P	P	—
>12	23-4E-6330	—	—	CUP	CUP	MUP	MUP	P	—
Single-Family		P	—	—	—	—	—	—	—
Single-Family Attached		P	P	—	—	—	—	—	—
Short-term Rental									
Types 1	23-4E-6340	P	P	P	P	P	P	P	P
Types 2	23-4E-6340	—	—	—	—	—	—	—	—
Types 3	23-4E-6340	P	P	P	P	P	P	P	P
Townhouse		P	P	P	P	P	P	P	—

Key for Table 23-4D-3030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-3030(A) Allowed Uses in Residential Multi-Unit Zones RM1A–MH (continued)									
Use Type	Specific to Use Requirements	RM1A	RM1B	RM2A	RM2B	RM3A	RM4A	RM5A	MH
(2) Residential Support									
Residential Care Facility		—	—	CUP	—	CUP	—	P	—
Transitional and Supportive Housing		—	—	—	—	CUP	—	CUP	—
(3) Services									
Day Care									
Small <7		P	P	P	P	P	P	P	P
Large 7 ≥ and ≤20		MUP	MUP	P	P	P	P	P	P
Commercial		CUP	CUP	CUP	—	MUP	MUP	MUP	CUP
Hospital		—	—	—	—	CUP	CUP	CUP	—
Medical Services									
<2,500 sf		—	—	—	P	—	P	—	—
>2,500 sf		—	—	—	P	—	P	—	—
(4) Office									
No Office uses allowed									
(5) Civic and Public Assembly									
Government		—	—	—	—	—	—	CUP	—
Library, Museum, or Public Art Gallery		MUP	MUP	MUP	MUP	MUP	MUP	MUP	CUP
Meeting Facility (public or private)		CUP	CUP	CUP	CUP	MUP	CUP	MUP	CUP
Public Safety Facility		CUP	CUP	CUP	CUP	MUP	CUP	MUP	CUP
Religious Assembly Facility		P	P	P	P	P	P	P	P
School									
Business, or Trade	23-4E-6320	—	—	—	P	—	P	—	—
College or University	23-4E-6320	CUP	CUP	CUP	P	CUP	P	CUP	CUP
Private Primary	23-4E-6320	CUP	CUP	CUP	P	CUP	P	CUP	CUP
Private Secondary	23-4E-6320	CUP	CUP	CUP	P	CUP	P	CUP	CUP
Public Primary	23-4E-6320	P	P	P	P	P	P	P	P
Public Secondary	23-4E-6320	P	P	P	P	P	P	P	P

Key for Table 23-4D-3030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-3030(A) Allowed Uses in Residential Multi-Unit Zones RM1A–MH (continued)

Use Type	Specific to Use Requirements	RM1A	RM1B	RM2A	RM2B	RM3A	RM4A	RM5A	MH
(6) Restaurant and Bars									
No Restaurant and Bars uses allowed									
(7) Retail									
No Retail uses allowed									
(8) Entertainment and Recreation									
Recreation									
Indoor ≤ 5,000 sf	23-4E-6290	MUP	MUP	MUP	MUP	MUP	MUP	MUP	CUP
Indoor > 5,000 sf	23-4E-6290	MUP	MUP	MUP	MUP	MUP	MUP	MUP	CUP
Outdoor, Formal	23-4E-6290	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Outdoor, Informal	23-4E-6290	P	P	P	P	P	P	P	P
Outdoor, Natural	23-4E-6290	P	P	P	P	P	P	P	P
Studio: art, dance, martial arts, music	23-4E-6370	P	P	P	P	P	P	P	—
(9) Industrial									
No Industrial uses allowed									
(10) Agriculture									
Community Agriculture	23-4E-6120	P	P	P	P	P	P	P	P
(11) Automobile Related									
Parking Facility		—	—	—	CUP	—	CUP	—	—
(12) Innovation and Technology									
No Innovation and Technology uses allowed									
(13) Other									
Accessory Uses	23-4E-6050	P	P	P	P	P	P	P	P
Communications	23-4E-6110	P	P	P	P	P	P	P	P
Utilities									
Local		P	P	P	P	P	P	P	P
Major		—	—	—	—	—	—	—	—
Telecommunications	23-4E-6370	P	P	P	P	P	P	P	P
Temporary Uses	23-4B-1050	TUP	TUP	TUP	TUP	TUP	TUP	TUP	TUP
Transit Terminal		—	—	—	CUP	—	CUP	—	—
Special Uses	23-4E-6350	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP

Key for Table 23-4D-3030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

23-4D-3040 Parking Requirements

- (A) **Parking Required.** Required off street parking in the Residential Zones is provided in Table 23-4D-3040(A) (Parking Standards for Residential Zones).
- (B) **Parking Reductions.** See Section 23-4E-3060 (Off-street Motor Vehicle Parking Adjustments) for standards for parking adjustment from Table A (Parking Standards for Residential Multi-Unit Zones).
- (C) **Maximum Number of Parking Spaces.** Developments over 10,000 square feet in floor area or containing 25 or more residential units shall not exceed the double the minimum number of parking spaces required. Maximum is calculated before any applicable parking reductions. Maximum does not apply to zones or land uses that require no off-street parking.
- (D) **Parking Limitations.** Developments over 10,000 square feet in floor area or containing 25 or more residential units must not exceed the minimum number of parking spaces by more than 100 percent.

Table 23-4D-3040(A) Parking Standards for Residential Multi-Unit Zones	
Use Type	Off-Street Parking Requirement
(1) Residential	
Accessory Dwelling Unit - Residential	none required
Bed and Breakfast	1 plus 0.8 per bedroom
Cooperative Housing	1 plus 1 per every 4 bedrooms
Group Residential	1 plus 1 per every 3 bedrooms
Home Occupations	none required
Senior/ Retirement Housing	0.8 per unit
Other allowed residential uses	1 per unit
(2) Residential Support	
Residential Care Facility	0.8 per unit
Transitional and Supportive Housing	1 plus 1 per every 4 bedrooms
(3) Services	
Hospital	1 per every 4 beds, plus 1 per 500 sf
Medical Services	1 per 350 sf
Other allowed service uses	1 per 500 sf
(4) Office	
No office uses allowed	
(5) Civic and Public Assembly	
Government	1 per 500 sf
Library, Museum, or Public Art Gallery	1 per 500 sf
Meeting Facility (public or private)	1 per 500 sf
Other allowed civic and public assembly uses	As determined by the Director

Table 23-4D-3040(A) Parking Standards for Residential Multi-Unit Zones (continued)

Use Type	Off-Street Parking Requirement
(6) Restaurant and Bars	
No restaurant and bar uses allowed	
(7) Retail	
No retail uses allowed	Use not allowed in zones
(8) Entertainment and Recreation	
Studio: art, dance, martial arts, music	1 per 500 sf
All other allowed entertainment and recreation uses	1 per 100 sf
(9) Industrial	
No industrial uses allowed	Use not allowed in zones
(10) Agriculture	
All allowed Agriculture uses	≤ 5,000 sf - None required, > 5,000 sf - As determined by Director
(11) Automobile Related	
Parking Facility	None Required
(12) Innovation and Technology	
No innovation and technology uses allowed	
(13) Other	
All allowed other uses	As determined by the Director

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23-4D-3050 Residential Multi-Unit 1A (RM1A) Zone

#77, 78

- (A) **Purpose.** Residential multi-unit 1A (RM1A) zone is intended to provide a transition between lower-intensity or medium-intensity residential zones and higher-intensity residential zones or mixed use zones.
- (B) **Overview.** This zone allows attached multi-unit housing in house scale or block scale buildings. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone require additional setbacks but not height stepbacks.
- (C) **Requirements.** A lot zoned residential multi-unit 1A shall comply with requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking);
 - (6) Table (F) (Impervious Cover); and
 - (7) Table (G) (Open Space).

RM1A

23-4D-3050: Residential Multi-Unit 1A (RM1A) Zone

PC Motion #77

Table 23-4D-3050(F)

Increase impervious cover in RM1A to 60% for all other uses beyond residential, unless the primary use is parking.

PC Motion #78

For RM1A and RM1B the following development standards be altered:

McMansion tent (as McMansion is applied in Draft 3) apply

Within 30 feet from a rear triggering property, height be limited to 2 stories

Eliminate landscape buffer and articulation

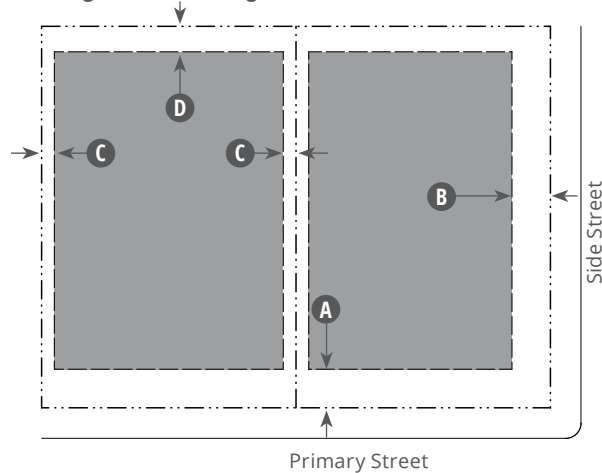
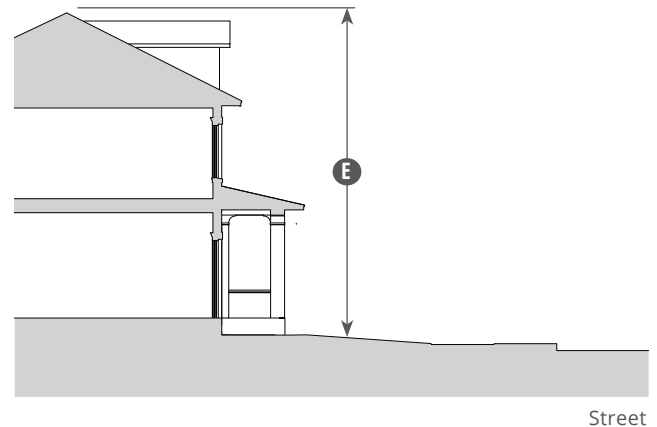
Side setback of 10 feet, as opposed to the 5 that is currently required in Draft 3

Table 23-4D-3050(A) Lot Size and Intensity

Allowed Use	Lot			
	Principal Dwelling Units per Acre (max.)		Width (min.)	Area (min.)
	Base Standard	AHBP Bonus ¹		
Single-Family	12	+0	45'	3,500 sf
Single-Family Attached	18	+0	25'	2,500 sf
Duplex	18	+0	45'	5,000 sf
Live/Work	24	+0	25'	2,400 sf
Multi-Family	12	+18	50'	5,000 sf
Townhouse	18	+0	24'	2,400 sf
Live/Work	18	+0	24'	2,400 sf
Other Allowed Uses	—	+0	50'	5,000 sf
Accessory Allowed Use	Lot Size		Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf		750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf		975 sf	
Accessory Dwelling Unit	7,000 sf or greater		1,100 sf	

Only one Accessory Dwelling Unit may be built and does not count towards Principal Dwelling Units per Lot limit.

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram**Building Height Diagram****Key for Diagrams**

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

Table 23-4D-3050(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25' ¹	15' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure that is adjacent to an alley.

(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

(3) Compatibility Setbacks

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

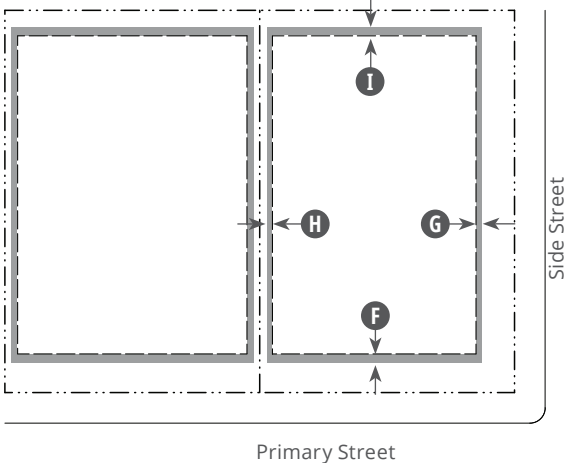
(b) Compatibility Setback	Front A	Side St. B	Side C	Rear D
Lots ≤ 75' wide	25'	15'	15'	30'
Lots > 75' wide	25'	15'	20' ²	30'

(c) Where a compatibility setback along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

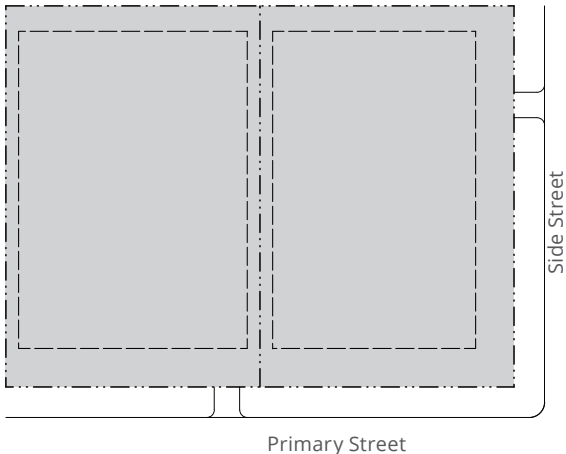
Table 23-4D-3050(C) Height

(1) Primary and Accessory Building		
Overall (max.)	35'	E
(2) Accessory Structure		
Overall (max.)	12'	

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Encroachment

Parking Area

Table 23-4D-3050(D) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement**.

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-3050(E) Parking

(1) Parking Requirements

See Section 23-4D-3040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Table 23-4D-3050(F) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover ³		
Single-Family Use	45%	23-3D-3
Other Use	55%	23-3D-3
Building Cover	40%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

³ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-3050(G) Open Space	
(1) Open Space Type	Size (min.)
(a) Personal Open Space	
Multi-Family Uses	5% gross site area in compliance with Section 23-4E-6250 (Multi-Family)
(b) Common Open Space	
Multi-Family Uses	5% gross site area ≥ 10 units
All Other Non-Residential Uses	5% gross site area > 2 acres
(c) Civic Open Space	
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

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23-4D-3060 Residential Multi-Unit 1B (RM1B) Zone

#78

- (A) **Purpose.** Residential Multi-Unit 1B (RM1B) zone is intended to provide a transition between medium-intensity residential zones and higher-intensity residential zones or mixed use and main street zones.
- (B) **Overview.** This zone allows a variety of multi-unit housing in large detached house scale and attached rowhouse buildings with accessory dwelling units. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone require additional setbacks but not height stepbacks.
- (C) **Requirements.** A lot zoned residential multi-unit 1B shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).

RM1B

23-4D-3060: Residential Multi-Unit 1 B (RM1B) Zone

[PC Motion #78](#)

For RM1A and RM1B the following development standards be altered:

McMansion tent (as McMansion is applied in Draft 3) apply

Within 30 feet from a rear triggering property, height be limited to 2 stories

Eliminate landscape buffer and articulation

Side setback of 10 feet, as opposed to the 5 that is currently required in Draft 3

Table 23-4D-3060(A) Lot Size and Intensity

Allowed Use	Lot				Building	
	Principal Dwelling Units per Acre (max.)				Size (max.)	
	Base Standard	AHBP Bonus ¹	Width (min.)	Area (min.)	Base Standard The less restrictive shall apply between:	AHBP Bonus ¹
Single-Family Attached	18	+0	25'	2,500 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	18	+0	45'	5,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Live/Work	24	+0	18'	2,400 sf	0.8 FAR	+0 FAR
Multi-Family	18	+28	50'	5,000 sf	0.8 FAR	+1.2 FAR
Townhouse ²	18	+0	24'	2,400 sf	0.8 FAR	+0 FAR
Other Allowed Uses	—	+0	50'	5,000 sf	0.8 FAR	+0 FAR
Accessory Allowed Use	Lot Size				Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf				750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf				975 sf	
Accessory Dwelling Unit	7,000 sf or greater				1,100 sf	

Only one Accessory Dwelling Unit may be built and does not count towards Principal Dwelling Units per Lot limit.

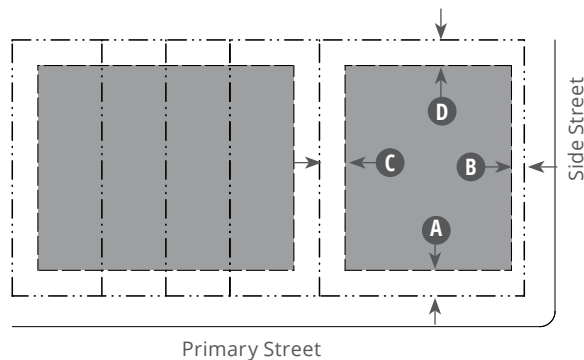
Accessory Dwelling Unit size counts towards the principal use's FAR limit.

Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.

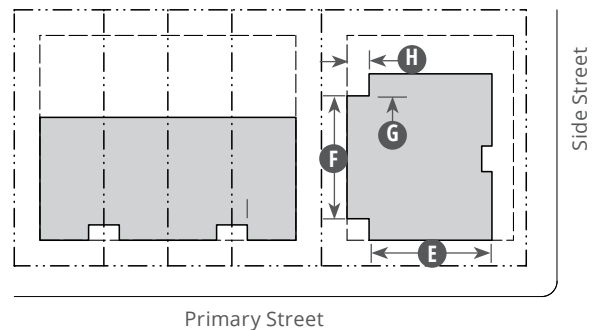
¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

² Shall be built in a run with a minimum of 3 attached buildings.

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
 ■ Buildable Area

--- Building Setback Line

■ Building Footprint

Table 23-4D-3060(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	10' ¹	5' ¹	5'	10' ²

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure that is adjacent to an alley.

(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

(3) Compatibility Setbacks

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Front A	Side St. B	Side C	Rear D
For lots ≤ 75' wide	10'	5'	15'	30'
For lots > 75' wide	10'	5'	20'	30'

(c) Where a compatibility setback along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-3060(C) Building Form

(1) Overall Building Envelope

Width (max.)	100' E
--------------	--------

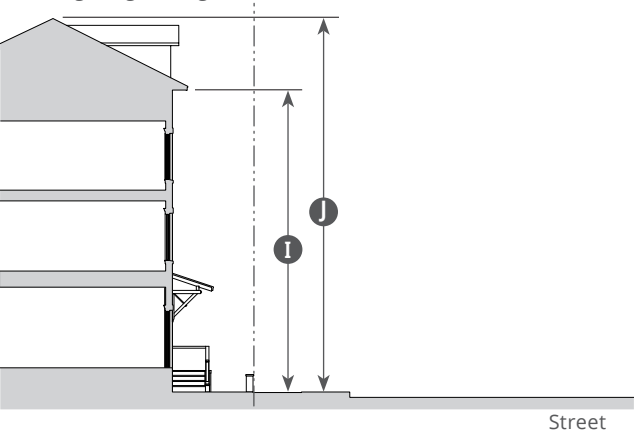
(2) Building Articulation New Construction

Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.

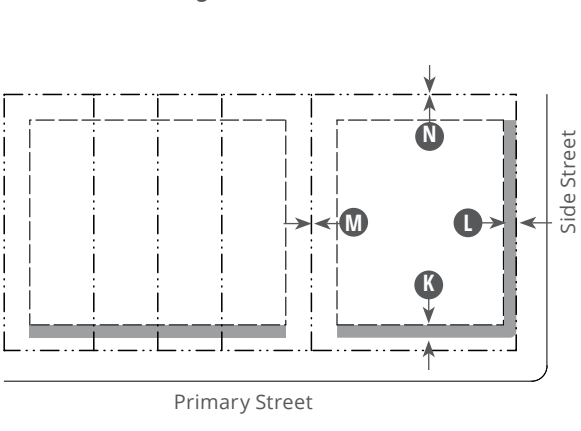
(3) Facade(s), All Stories

Facade Length without Articulation (max.)	60' F
Articulation Length (min.)	12' G
Articulation Depth (min.)	6' H

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Table 23-4D-3060(D) Height

(1) Primary and Accessory Building

To Top Plate (max.)	35'	I
Overall (max.)	45'	J

(2) Accessory Structure

Overall (max.)	12'
----------------	-----

Table 23-4D-3060(E) Encroachments

(1) Encroachment Type	Front (max.) K	Side St. (max.) L	Side (max.) M	Rear (max.) N
Private Frontage	5'	5'	—	—
Architectural Features	3'	3'	—	—
Fountain	8	3'	8'	8'
Pool	—	3'	8'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

■ Encroachment

Table 23-4D-3060(E) Encroachments (continued)

(2) Height Encroachment

The following height encroachment types may encroach above the top plate maximum up to the overall maximum.

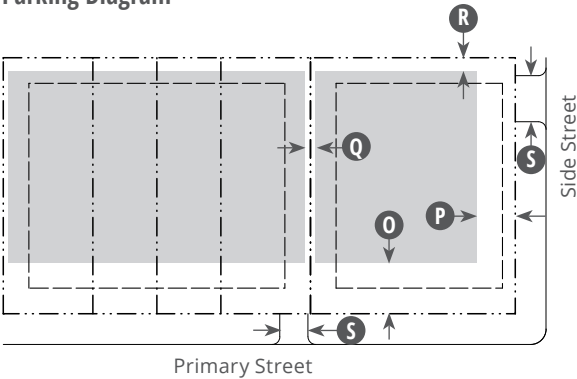
(a) Height Encroachment Type	Encroachment Height above top plate (max.)	Encroachment Length (max.)
Gable End	11'	30', within 60' of Front Lot Line
Dormers	11'	15' combined on each building

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Key for Tables

- A = Allowed
- = Not Allowed
- N/R = No Requirement

Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Parking Area

Table 23-4D-3060(F) Parking

(1) Parking Requirements

See Section 23-4D-3040 (Parking Requirements) for standards.

(2) Setback	Front O	Side St. P	Side Q	Rear R
-------------	------------	---------------	-----------	-----------

At-Grade and Above-Grade	20' ¹	15'	2'	5'
Below-Grade	10'	5'	10'	10'

(3) Parking Driveway

Width	10' max.	S
-------	----------	---

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Garage doors along the front facade of the primary building must occupy no more than one-third the width of the front facade.

¹ Required parking space(s) must not be located in front of the front facade of the building.

Table 23-4D-3060(G) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Porch: Projecting	A	A	23-4E-1040
Porch: Engaged	A	A	23-4E-1050
Stoop	A	A	23-4E-1060
Dooryard	A	A	23-4E-1070

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

(2) Pedestrian Access

All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.

Table 23-4D-3060(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	60% ¹	23-3D-3
Building Cover	50%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		

¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-3060(I) Open Space			
(1) Open Space Type	Width (min.)	Depth (min.)	Percentage (min.)
Common ²	8'	10'	5% gross site area

Common open space requirement may be met by ground floor, upper floor, and/or roof common open space.

Common open space requirements must not be met by open space provided in required front or side-street setbacks, except when provided as an open space as set forth in Division 23-4C-2 (Civic and Open Spaces).

²The Courtyard building type has additional open space standards. See Section 23-4D-2220 (Supplementary Courtyard Building Type Standards).

23-4D-3070 Residential Multi-Unit 2A (RM2A) Zone

- (A) **Purpose.** Residential Multi-Unit 2A (RM2A) zone is intended to provide a transition between medium-intensity residential zones and higher-intensity residential zones or mixed use zones.
- (B) **Overview.** This zone allows attached multi-unit housing in house scale or block scale buildings. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone require height stepbacks and additional setbacks.
- (C) **Requirements.** A lot zoned residential multi-unit 2A shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking);
 - (6) Table (F) (Impervious Cover); and
 - (7) Table (G) (Open Space).



RM2A

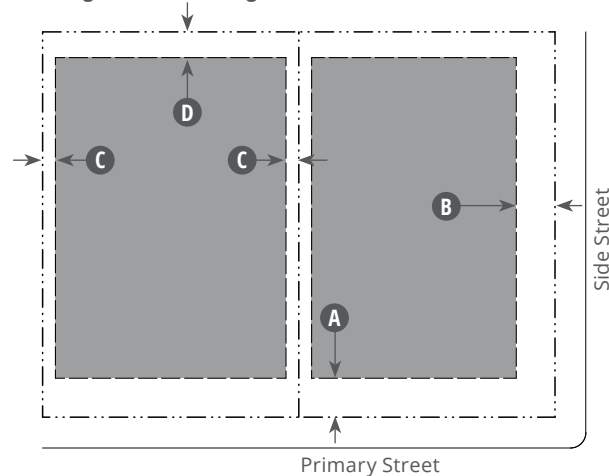
Table 23-4D-3070(A) Lot Size and Intensity

Allowed Use	Lot			
	Principal Dwelling Units per Acre (max.)		Width (min.)	Area (min.)
	Base Standard	AHBP Bonus ¹		
Live/Work	24	+0	18'	1,800 sf
Multi-Family	18	+28	50'	8,000 sf
Townhouse	24	+0	18'	1,800 sf
Other Allowed Uses	—	+0	50'	8,000 sf
Accessory Allowed Use	Lot Size		Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf		750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf		975 sf	
Accessory Dwelling Unit	7,000 sf or greater		1,100 sf	

Only one Accessory Dwelling Unit may be built and does not count towards Principal Dwelling Units per Lot limit.

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram



Key for Diagrams

- ROW / Lot Line
--- Building Setback Line

Table 23-4D-3070(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25' ¹	15' ¹	5'	10'

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

(2) Additional Standards

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

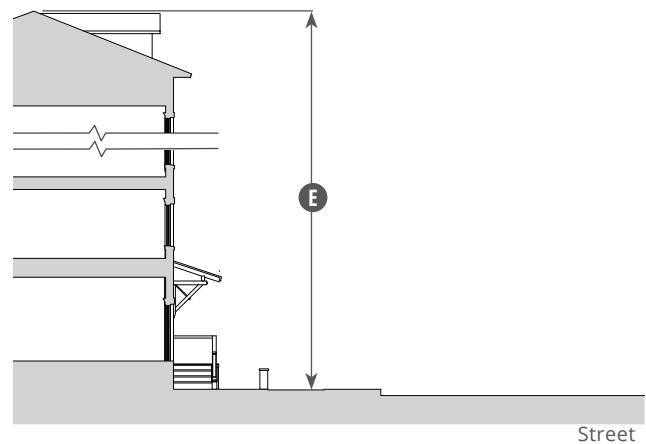
(3) Compatibility Standards

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Front A	Side St. B	Side C	Rear D
Lots ≤ 75' wide	25'	15'	15'	30'
Lots > 75' wide	25'	15'	20'	30'

(c) Where a compatibility setback along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Building Height Diagram



█ Buildable Area

⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-3070(C) Height

(1) Primary Building	
Overall (max.)	40' E
(2) Accessory Building	
Overall (max.)	30'
(3) Accessory Structure	
Overall (max.)	12'
(4) Compatibility Height Stepback	

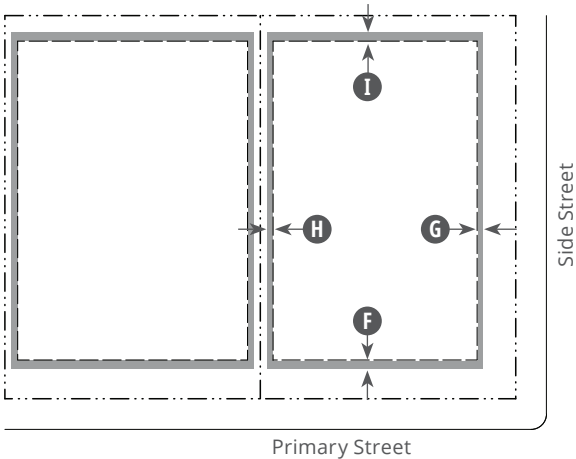
(a) Building height setbacks are required where a portion of a building is located:

- (i) across an alley less than 20 feet in width, from a property zoned Residential House-Scale;
- (ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or
- (ii) adjacent to a property zoned Residential House-Scale.

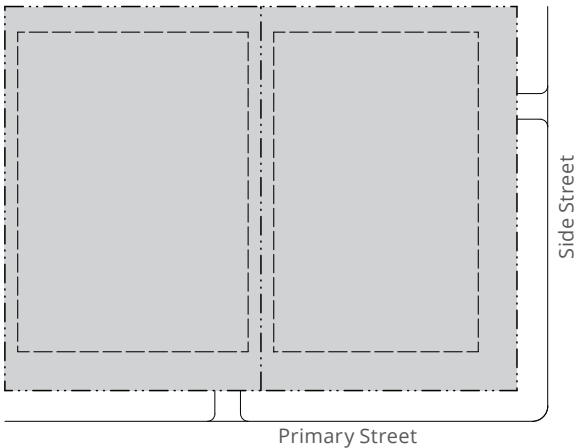
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).

(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:
≤ 25'	18'
25'-50'	35'
> 50'	Set by zone standards

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-3070(D) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-3070(E) Parking

(1) Parking Requirements

See Section 23-4D-3040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-3070(F) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	60% ³	23-3D-3
Building Cover	50%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

³ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-3070(G) Open Space

(1) Open Space Type	Size (min.)
(a) Personal Open Space	
Multi-Family Uses	5% gross site area in compliance with Section 23-4E-6240 (Multi-Family)
(b) Common Open Space	
Multi-Family Uses ≥ 10 units	5% gross site area
All Other Non-Residential Uses > 2 acres	5% gross site area
(c) Civic Open Space	
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

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23-4D-3080 Residential Multi-Unit 2B (RM2B) Zone

- (A) **Purpose.** Residential multi-unit 2B (RM2B) zone is intended as a transition between medium-intensity residential zones and higher-intensity residential zones or mixed use and main street zones.
- (B) **Overview.** This zone allows a variety of multi-unit housing in large detached house scale and attached rowhouse buildings with accessory dwelling units. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone require height stepbacks and additional setbacks.
- (C) **Requirements.** A lot zoned residential multi-unit 2B shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



RM2B

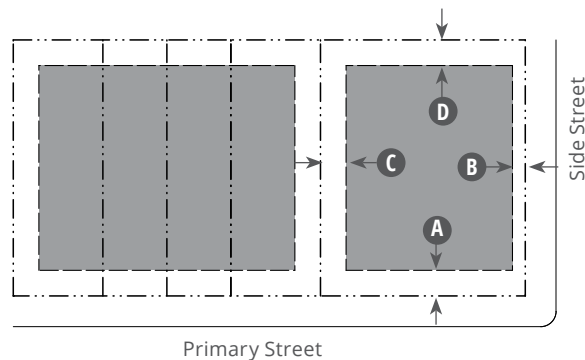
Table 23-4D-3080(A) Lot Size and Intensity

Allowed Use	Lot				Building	
	Principal Dwelling Units per Acre (max.)				Size (max.)	
	Base Standard	AHBP Bonus ¹	Width (min.)	Area (min.)	Base Standard The less restrictive shall apply between:	AHBP Bonus ¹
Live/Work	24	+0	18'	1,800 sf	0.8 FAR	+0 FAR
Multi-Family	36	+36	50'	5,000 sf	0.8 FAR	+1.2 FAR
Townhouse ²	24	+0	18'	1,800 sf	0.8 FAR	+0 FAR
Other Allowed Uses	—	+0	50'	5,000 sf	0.8 FAR	+0 FAR
Accessory Allowed Use	Lot Size				Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf				750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf				975 sf	
Accessory Dwelling Unit	7,000 sf or greater				1,100 sf	
Only one Accessory Dwelling Unit may be built and does not count towards Principal Dwelling Units per Lot limit.						
Accessory Dwelling Unit size counts towards the principal use's FAR limit.						
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.						
¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).						

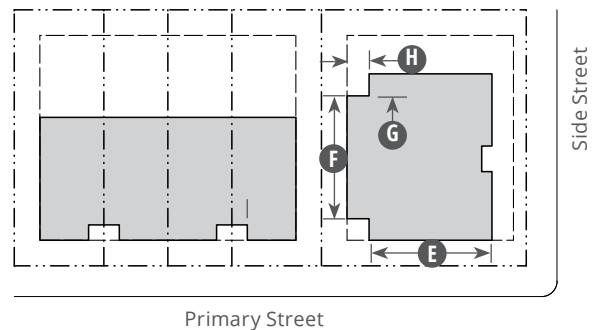
¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

² Shall be built in a run with a minimum of 3 attached buildings.

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
 ■ Buildable Area

--- Building Setback Line

■ Building Footprint

Table 23-4D-3080(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	10' ¹	5' ¹	5'	10'

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

² The rear setback is five feet for an accessory structure that is adjacent to an alley.

(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

(3) Compatibility Setbacks

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

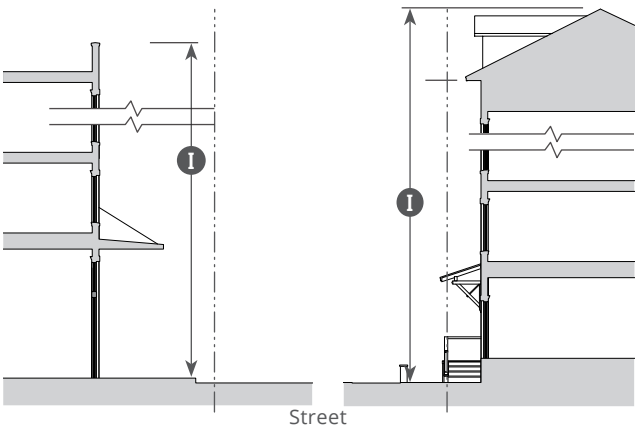
(b) Compatibility Setback	Front A	Side St. B	Side C	Rear D
Lots ≤ 75' wide	10'	5'	15'	30'
Lots > 75' wide	10'	5'	20'	30'

(c) Where a compatibility setback along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

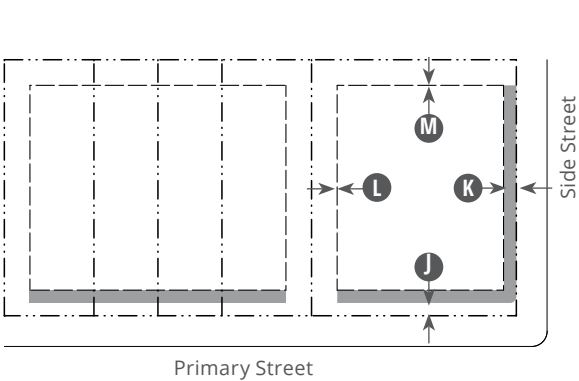
Table 23-4D-3080(C) Building Form

(1) Overall Building Envelope	
Width (max.)	100' E
(2) Building Articulation New Construction	
Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.	
(3) Facade(s), All Stories	
Facade Length without Articulation (max.)	60' F
Articulation Length (min.)	12' G
Articulation Depth (min.)	6' H

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Encroachment

⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-3080(D) Height

(1) Primary Building	Base	
	Standard	AHBP Bonus ¹
Overall (max.)	40'	+15' I
¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).		
(2) Accessory Building		
To Top Plate (max.)	23'	
Overall (max.)	28'	
(3) Accessory Structure		
Overall (max.)	12'	
(4) Compatibility Height Stepback		

- (a) Building height setbacks are required where a portion of a building is located:
- (i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;
 - (ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or
 - (ii) adjacent to a property zoned Residential House-Scale.
- (b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).

Table 23-4D-3080(D) Height (continued)

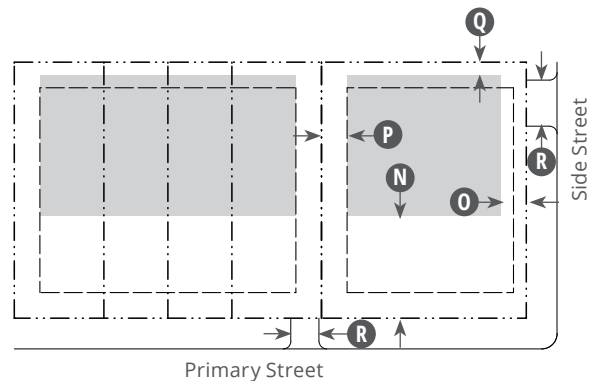
(c) Distance from the lot line of the triggering	Overall height shall not exceed:
≤ 25'	18'
> 25' and ≤ 50'	35'
> 50' and ≤ 100'	45'
> 100'	Set by zone standards

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Key for Tables

- A = Allowed
- = Not Allowed
- N/R = No Requirement

Parking Diagram



Key for Diagrams

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-3080(E) Encroachments

(1) Encroachment Type	Front (max.) J	Side St. (max.) K	Side (max.) L	Rear (max.) M
Private Frontage	5'	3'	—	—
Architectural Features	3'	3'	—	—
Fountain	8'	3'	8'	8'
Pool	—	3'	8'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-3080(F) Parking

(1) Parking Requirements

See Section 23-4D-3040 (Parking Requirements) for standards.

(2) Setback (min.)	Front N	Side St. O	Side ² P	Rear Q
At-Grade and Above-Grade	30'	5'	10'	5'
Below-Grade	10'	5'	10'	10'

(3) Parking Driveway ≤ 40 spaces > 40 spaces

Width	14' max.	18' max.	R
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Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

²Side parking setbacks not required for attached rowhouse buildings.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-3080(G) Frontages			
(1) Private Frontage Type	Front	Side St.	Standards
Porch: Projecting	A	A	23-4E-1040
Porch: Engaged	A	A	23-4E-1050
Stoop	A	A	23-4E-1060
Dooryard	A	A	23-4E-1070
Lightwell ¹	A	A	23-4E-1100
For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.			
¹ Allowed only when necessary to accommodate grade change.			
(2) Pedestrian Access			
All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.			

Table 23-4D-3080(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	60% ³	23-3D-3
Building Cover	50%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		
³ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.		

Table 23-4D-3080(I) Open Space			
(1) Open Space Type	Width (min.)	Depth (min.)	Percentage (min.)
Common	8'	10'	5% gross site area

Common open space requirement may be met by ground floor, upper floor, and/or roof common open space.

Common open space requirements must not be met by open space provided in required front or side street setbacks, except when provided as an open space as set forth in Division 23-4C-2 (Civic and Open Spaces).

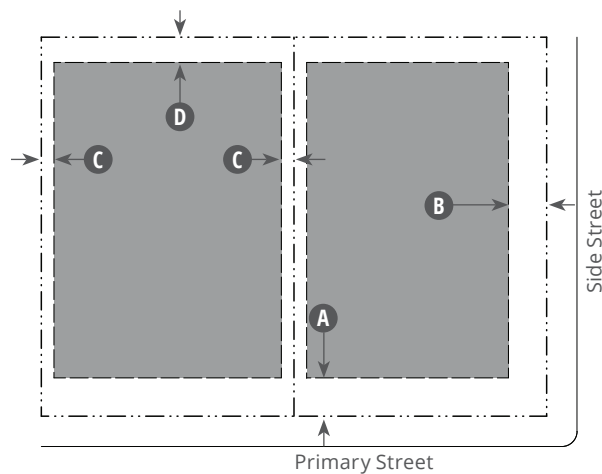
23-4D-3090 Residential Multi-Unit 3A (RM3A) Zone

- (A) **Purpose.** Residential multi-unit 3A (RM3A) zone is intended to provide a transition between medium-intensity residential zones and higher-intensity residential zones or mixed use zones.
- (B) **Overview.** This zone allows primarily attached multi-unit housing in house scale or block scale buildings. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effect of this zone requires height stepbacks and additional setbacks.
- (C) **Requirements.** A lot zoned residential multi-unit 3A shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking);
 - (6) Table (F) (Impervious Cover); and
 - (7) Table (G) (Open Space).



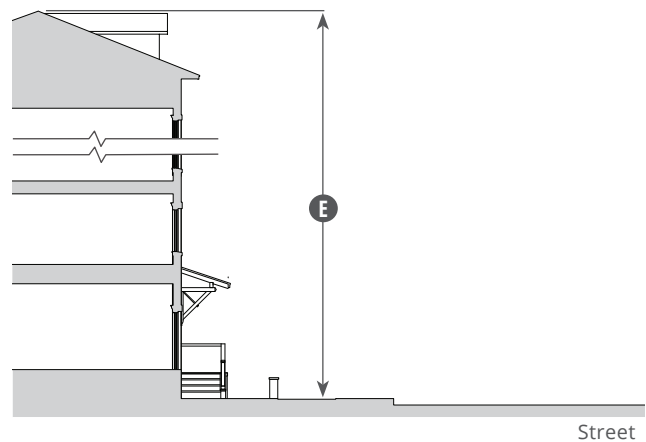
RM3A

Table 23-4D-3090(A) Lot Size and Intensity						
Allowed Use	Lot				Building	
	Principal Dwelling Units per Acre (max.)				Size (max.)	
	Base Standard	AHBP Bonus ¹	Width (min.)	Area (min.)	Base Standard The less restrictive shall apply between:	AHBP Bonus ¹
Live/Work	24	+0	18'	1,800 sf	0.8 FAR	+0 FAR
Multi-Family	36	+40	50'	8,000 sf	0.8 FAR	+1.2 FAR
Townhouse	24	+0	18'	1,800 sf	0.8 FAR	+0 FAR
Other Allowed Uses	—	+0	50'	8,000 sf	0.8 FAR	+0 FAR
Accessory Allowed Use	Lot Size				Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf				750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf				975 sf	
Accessory Dwelling Unit	7,000 sf or greater				1,100 sf	
Only one Accessory Dwelling Unit may be built and does not count towards Principal Dwelling Units per Lot limit.						
Accessory Dwelling Unit size counts towards the principal use's FAR limit.						
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.						
¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).						

Building Placement Diagram**Key for Diagrams**

--- ROW / Lot Line

--- Building Setback Line

Building Height Diagram

■ Buildable Area

⋈ Max. height may exceed diagram

Table 23-4D-3090(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	15' ¹	15' ¹	5'	10'

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

(3) Compatibility Setbacks

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Front A	Side St. B	Side C	Rear D
Lots ≤ 75' wide	15'	15'	10'	30'
Lots > 75' wide	15'	15'	20'	30'

(c) Where a compatibility setback along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-3090(C) Height

(1) Primary and Accessory Building	
Overall (max.)	60' E

(2) Accessory Structure

Overall (max.)	12'
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(3) Compatibility Height Stepback

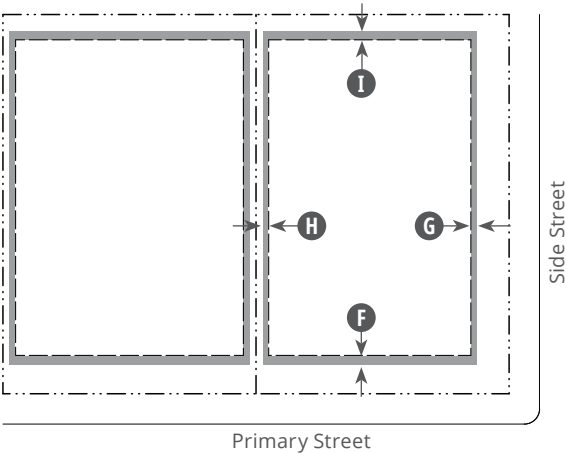
(a) Building height setbacks are required where a portion of a building is located:

- (i) across an alley less than 20 feet in width, from a property zoned Residential House-Scale;
- (ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or
- (ii) adjacent to a property zoned Residential House-Scale.

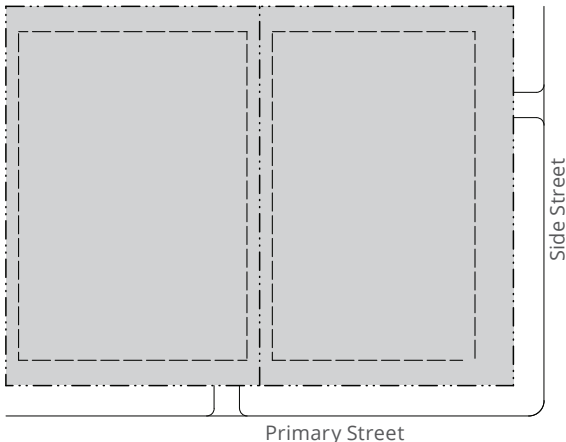
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).

(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:
≤ 25'	18'
> 25' and ≤ 50'	35'
> 50' and ≤ 100'	45'
> 100'	Set by zone standards

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-3090(D) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	23'	13'	3'	8'
Pool	—	13'	3'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-3090(E) Parking

(1) Parking Requirements

See Section 23-4D-3040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-3090(F) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	70% ³	23-3D-3
Building Cover	60%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

³The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-3090(G) Open Space

(1) Open Space Type	Size (min.)
---------------------	-------------

(a) Personal Open Space

Multi-Family Uses	5% gross site area in compliance with Section 23-4E-6240 (Multi-Family)
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(b) Common Open Space

Multi-Family Uses ≥ 10 units	5% gross site area
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All Other Non-Residential Uses > 2 acres	5% gross site area
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(c) Civic Open Space

Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)
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23-4D-3100 Residential Multi-Unit 4A (RM4A) Zone

- (A) **Purpose.** Residential multi-unit 4A (RM4A) zone is intended to provide a transition between medium-intensity residential zones and higher-intensity residential zones or mixed use and main street zones.
- (B) **Overview.** This zone allows a variety of attached multi-unit housing in block scale and rowhouse buildings with accessory dwelling units. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone require height stepbacks and additional setbacks.
- (C) **Requirements.** A lot zoned residential multi-unit 4A shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



RM4A

Table 23-4D-3100(A) Lot Size and Intensity

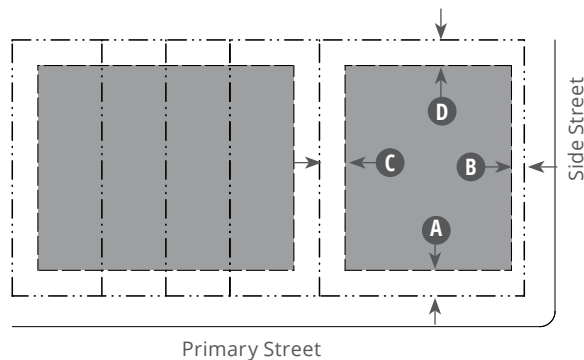
Allowed Use	Lot			
	Principal Dwelling Units per Acre (max.)		Width (min.)	Area (min.)
	Base Standard	AHBP Bonus ¹		
Live/Work	24	+0	18'	1,800 sf
Multi-Family	48	+26	50'	5,000 sf
Townhouse ²	24	+0	18'	1,800 sf
Other Allowed Uses	—	+0	50'	5,000 sf
Accessory Allowed Use	Lot Size		Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf		750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf		975 sf	
Accessory Dwelling Unit	7,000 sf or greater		1,100 sf	

Only one Accessory Dwelling Unit may be built and does not count towards Principal Dwelling Units per Lot limit.

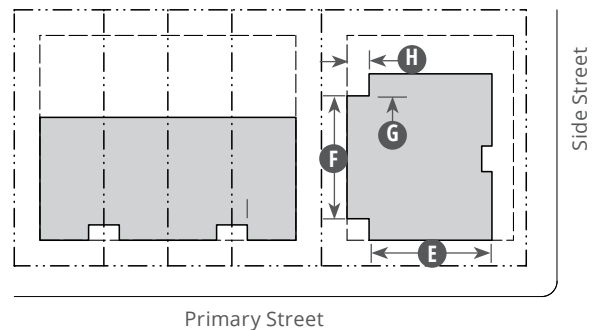
¹ To receive an affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

² Shall be built in a run with a minimum of 4 attached buildings.

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line

■ Buildable Area

--- Building Setback Line

■ Building Footprint

Table 23-4D-3100(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	5' ¹	5' ¹	0'	5'

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

(3) Compatibility Setbacks

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Front A	Side St. B	Side C	Rear D
Lots ≤ 75' wide	5'	5'	15'	30'
Lots > 75' wide	5'	5'	20'	30'

(c) Where a compatibility setback along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

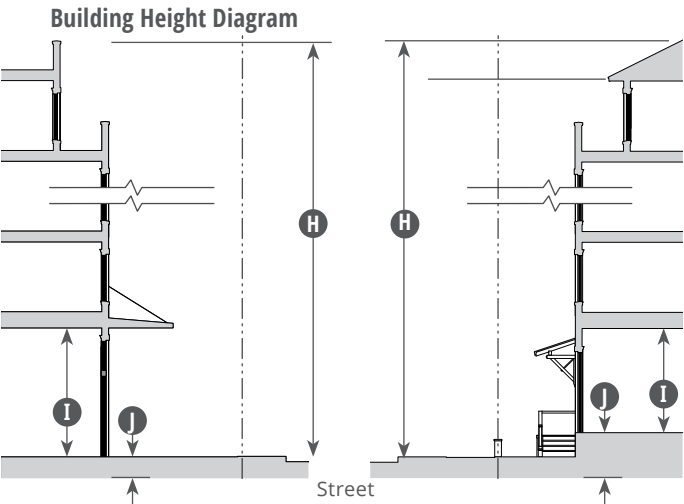
Table 23-4D-3100(C) Building Form

(1) Building Articulation New Construction

Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.

(2) Facades, All Stories

Facade Length without Articulation (max.)	150'	E
Articulation Length (min.)	10'	F
Articulation Depth (min.)	4'	G



Key for Diagram

---ROW / Lot Line

⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-3100(D) Height

(1) Primary Building	Base	
	Standard	AHBP Bonus ¹
Overall (max.)	60'	20' H

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

(2) Accessory Building

Overall (max.)	22'
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(3) Accessory Structure

Overall (max.)	12'
----------------	-----

(4) Compatibility Height Stepback

(a) Building height setbacks are required where a portion of a building is located:

- (i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;
- (ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or
- (ii) adjacent to a property zoned Residential House-Scale.

(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).

Table 23-4D-3100(D) Height (continued)

(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:
≤ 25'	18'
> 25' and ≤ 50'	35'
> 50' and ≤ 100'	45'
> 100'	Set by zone standards

(5) Primary Building, Ground Floor

Floor-to-Ceiling Height ²	14' min. I
Finish Floor Height Above Curb for ground floor residential use within 10' of a street right-of-way ^{2, 3, 4}	18" J

² Buildings existing at the time of adoption of this Land Development Code and additions to those buildings are exempt.

³ Primary buildings are exempt on lots where the existing grading slopes down and away from the street.

⁴ Does not apply to lobbies used to access residential units or amenity areas accessible to residential units.

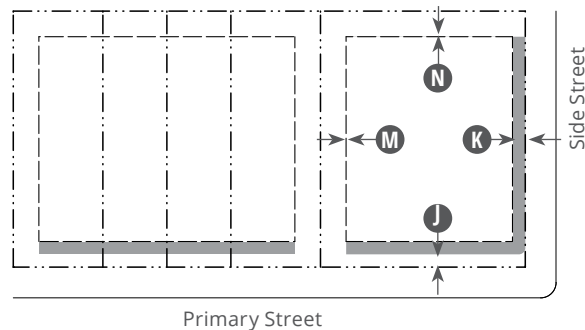
Key for Tables

A = Allowed

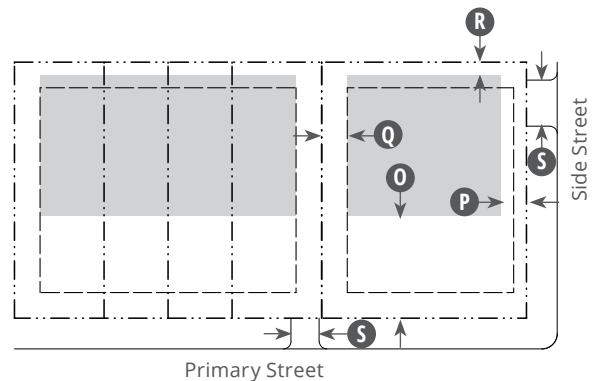
— = Not Allowed

N/R = No Requirement

Encroachments Diagram



Parking Placement Diagram



Key for Diagrams

--- ROW / Lot Line
 --- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-3100(E) Encroachments

(1) Encroachment Type	Front (max.) K	Side St. (max.) L	Side (max.) M	Rear (max.) N
Architectural Features	3'	3'	—	—
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	3'	3'	—	3'
Pool	—	3'	—	3'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

(1) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-3100(F) Parking

(1) Parking Requirements

See Section 23-4D-3040 (Parking Requirements) for standards.

(2) Setback (min.)	Front O	Side St. P	Side Q	Rear R
At-Grade	40'	10'	10'	5'
Above-Grade	40'	40'	10'	5'
Below-Grade	5'	5'	0'	5'

(3) Parking Driveway ≤ 40 spaces > 40 spaces

Width	14' max.	18' max.	S
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Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-3100(G) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Stoop	A	A	23-4E-1060
Dooryard	A	A	23-4E-1070
Terrace ¹	A	A	23-4E-1090
Lightwell ¹	A	A	23-4E-1100

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

¹ Allowed only when necessary to accommodate grade change.

(2) Pedestrian Access

All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.

Table 23-4D-3100(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	90% ¹	23-3D-3
Building Cover	80%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

See Section 23-4E-4080 (Functional Green) for additional standards for projects with impervious cover exceeding 80%.

¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the development must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-3100(I) Open Space

(1) Open Space Type	Width (min.)	Depth (min.)	Percentage (min.)
Common ²	8'	10'	5% gross site area

Common open space requirement may be met by ground floor, upper floor, and/or roof common open space.

Common open space requirements must not be met by open space provided in required front or side street setbacks, except when provided as an open space as set forth in Division 23-4C-2 (Civic and Open Spaces).

² The Courtyard building type has additional open space standards. See Section 23-4D-2210 (Supplementary Courtyard Building Type Standards).

23-4D-3110 Residential Multi-Unit 5A (RM5A) Zone

- (A) **Purpose.** Residential multi-unit 5A (RM5A) zone is intended to provide high-intensity residential.
- (B) **Overview.** This zone allows primarily attached multi-unit housing in block scale buildings. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone require height stepbacks and additional setbacks.
- (C) **Requirements.** A lot zoned Residential Multi-Unit 5A Zone shall comply with the requirements established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Impervious Cover); and
 - (8) Table (H) (Open Space).



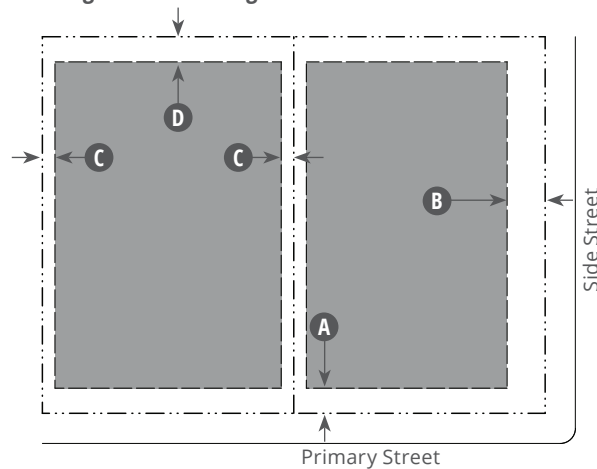
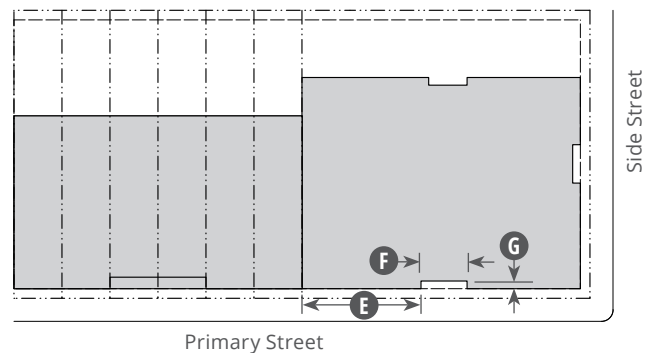
RM5A

Table 23-4D-3110(A) Lot Size and Intensity

Allowed Use	Lot			
	Principal Dwelling Units per Acre (max.)		Width (min.)	Area (min.)
	Base Standard	AHBP Bonus ¹		
Live/Work	24	+0	18'	1,800 sf
Multi-Family	54	+96	50'	8,000 sf
Townhouse	24	+0	18'	1,800 sf
Other Allowed Uses	—	+0	50'	8,000 sf
Accessory Allowed Use	Lot Size		Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf		750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf		975 sf	
Accessory Dwelling Unit	7,000 sf or greater		1,100 sf	

Only one Accessory Dwelling Unit may be built and does not count towards Principal Dwelling Units per Lot limit.

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram**Building Form Diagram****Key for Diagrams**

--- ROW / Lot Line
 ■ Buildable Area

--- Building Setback Line
 ■ Building Footprint

Table 23-4D-3110(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	15' ¹	15' ¹	5'	10'

¹ Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions).

(2) Additional Setbacks

(a) Additional setback and/or easement may be required where street right-of-way, public easement, or utilities easement is required.

(3) Compatibility Setbacks

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Front A	Side St. B	Side C	Rear D
Setback	15'	15'	20'	50'

(c) Where a compatibility setback along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

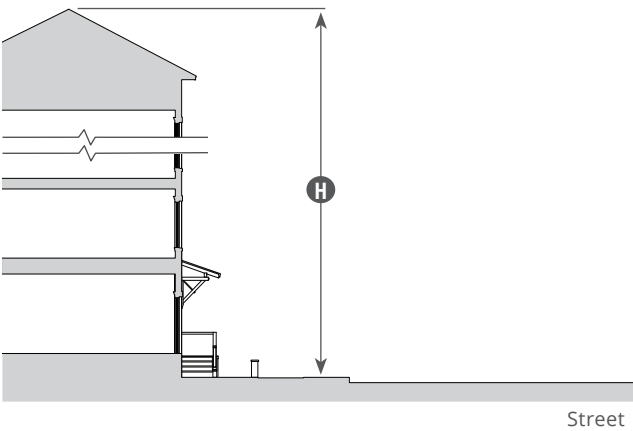
Table 23-4D-3110(C) Building Form**(1) Building Articulation New Construction**

Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line.

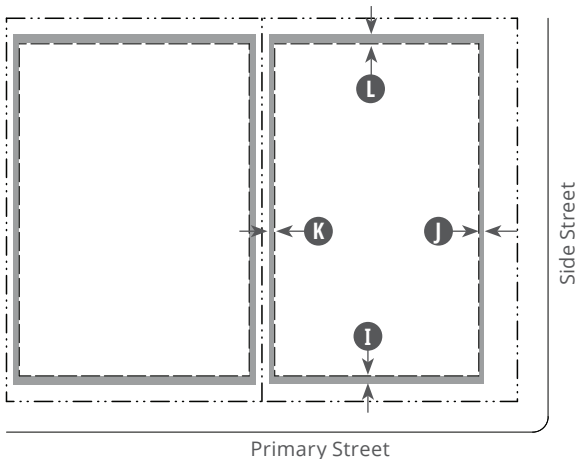
(2) Facades, All Stories

Facade Length without Articulation (max.)	150'	E
Articulation Length (min.)	10'	F
Articulation Depth (min.)	4'	G

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Encroachment

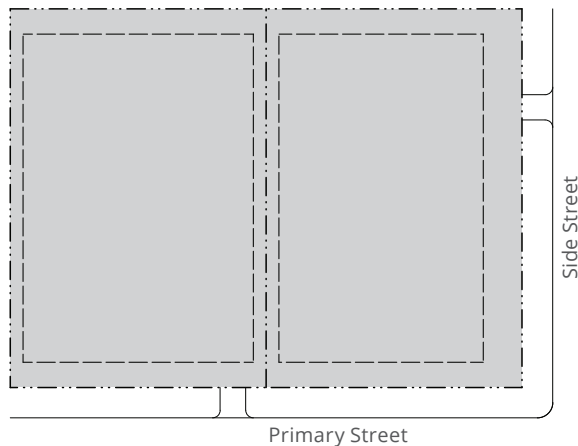
⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-3110(D) Height		
(1) Primary Building		
Overall (max.)	90'	E
(2) Accessory Building		
Overall (max.)	30'	
(3) Accessory Structure		
Overall (max.)	12'	
(4) Compatibility Height Stepback		
(a) Building height setbacks are required where a portion of a building is located:		
(i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;		
(ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale;		
(ii) adjacent to a property zoned Residential House-Scale.		
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).		
(c) Distance from the lot line	Overall height shall not	
of the triggering property:	exceed:	
≤ 50'	35'	
> 50' and ≤ 100'	45'	
> 100'	Set by zone standards	

Table 23-4D-3110(E) Encroachments				
(1) Encroachment Type	Front	Side St.	Side	Rear
	(max.)	(max.)	(max.)	(max.)
	I	J	K	L
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	13'	13'	3'	8'
Pool	—	13'	3'	8'
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				
Landscaping may be located in a required setback.				
Encroachments within a right-of-way, public easement, or utility easement require a license agreement or encroachment agreement.				
¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).				
² 3' max. above ground.				
(2) Height Encroachments				
See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.				

Key for Tables

- A = Allowed
- = Not Allowed
- N/R = No Requirement

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-3110(F) Parking**(1) Parking Requirements**

See Section 23-4D-3040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

No parking setbacks are required in this zone.

Table 23-4D-3110(G) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	80% ¹	23-3D-3
Building Cover	70%	

See Section 23-4E-4080 (Functional Green) for developments with Impervious Cover greater than 80%.

See Division 23-3D-3 (Impervious Cover) for additional standards.

¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-3110(H) Open Space**(1) Open Space Type Size (min.)****(a) Personal Open Space**

Multi-Family Uses	5% gross site area in compliance with Section 23-4E-6240 (Multi-Family)
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(b) Common Open Space

Multi-Family Uses ≥ 10 units	5% gross site area
All Other Non-Residential Uses > 2 acres	5% gross site area

(c) Civic Open Space

Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)
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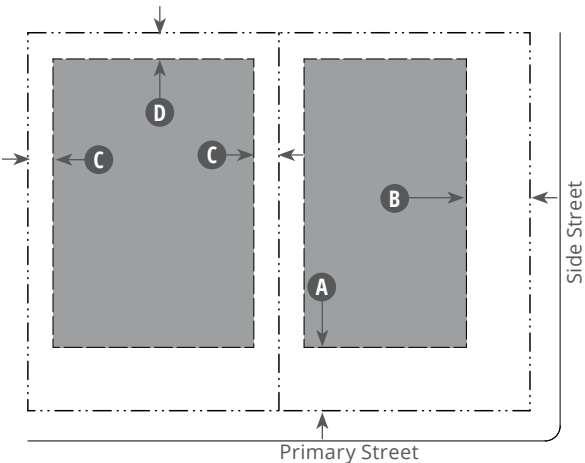
23-4D-3120 Residential Manufactured Home (MH) Zone

- (A) **Purpose.** Manufactured home (MH) zone is intended to allow for a residential environment that is compatible with adjacent residential neighborhoods.
- (B) **Overview.** This zone allows manufactured home housing. It can be summarized as:
 - (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects of this zone require additional setbacks but not height stepbacks.
- (C) **Applicability.** This division applies to manufactured homes located within a manufactured home park.
- (D) **Requirements**
 - (1) A lot zoned manufactured home shall comply with the requirements of this subsection, which are established in the following tables:
 - (a) Table (A) (Lot Size and Intensity);
 - (b) Table (B) (Building Placement);
 - (c) Table (C) (Height);
 - (d) Table (D) (Encroachments);
 - (e) Table (E) (Recreation Areas);
 - (2) A lot zoned manufactured home shall also comply with the requirements of Subsections (E–Q).

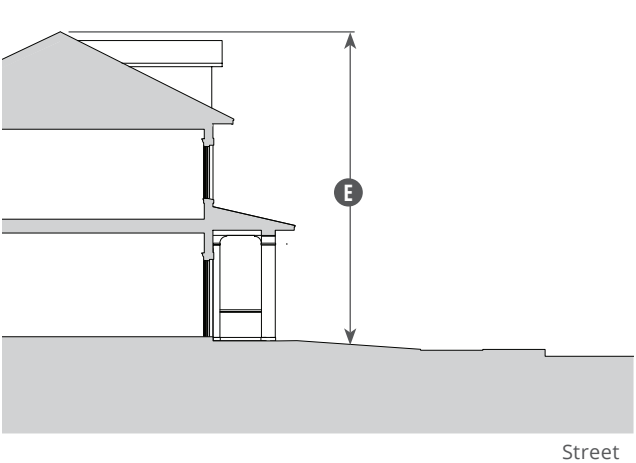
MH

Table 23-4D-3120(A) Lot Size and Intensity	
Size	
Park Size (min.)	90,000 sf
Number of manufactured home spaces (min.)	20
Manufactured home space site size (min.)	4,500 sf
Intensity	Base Standard
Dwelling Units per Acre (max.)	N/R

Building Placement Diagram



Building Height Diagram



Key for Diagrams

---ROW / Lot Line

■ Buildable Area

--- Building Setback Line

Table 23-4D-3120(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25'	25'	15'	10'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

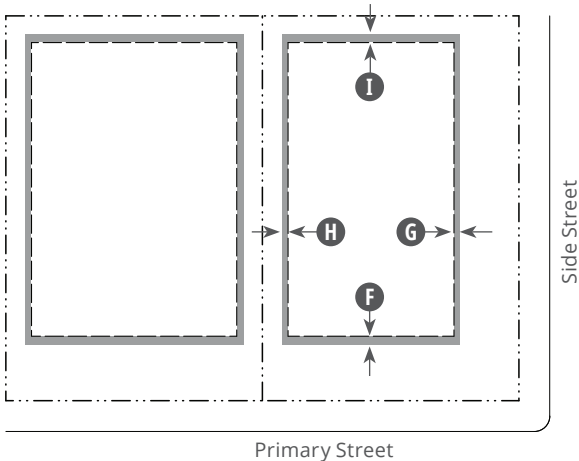
(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
Minimum	25'	25'	50'	50'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

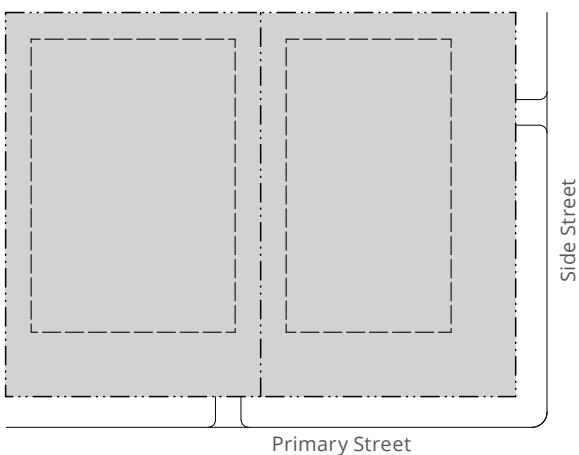
Table 23-4D-3120(C) Height

(1) All Buildings	
Overall (max.)	35' E

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

 Encroachment  Parking Area

Table 23-4D-3120(D) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Fountain	23'	23'	13'	8'
Pool	—	23'	13'	8'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Encroachments within a right-of-way, public easement, or utility easement require a license agreement or encroachment agreement.

Landscaping may be located in a required setback.

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² The maximum height of a porch, stoop, or uncovered step is three feet.

Table 23-4D-3120(E) Recreation Areas

(1) A manufactured home park must have at least one recreation area.

(2) The applicant or licensee of a park shall provide a recreation area or recreational facility such as a playground, swimming pool, or community building for the use of the manufactured home residents in the park.

(3) If a playground space is provided, the owner or licensee of the park shall designate the area as playground and protect the playground from traffic, thoroughfares, and parking areas. A playground space must be maintained in a sanitary condition and free of safety hazards.

- (E) **Visual Screening.** Screening that complies with Section 23-4E-4130 (Visual Screening) is required unless the manufactured home park is located 200 feet or more from the public right-of-way.
- (F) **Additional Requirements.** A manufactured home park shall:
- (1) Must provide direct access to a public street with a right-of-way at least 60 feet wide
 - (2) Must provide private, paved internal streets at least 30 feet wide for interior vehicular circulation. An internal street must be continuous and connect with other internal streets or with public streets, or provide a paved cul-de-sac having a diameter of at least 80 feet. An internal street ending in a cul-de-sac may not exceed 400 feet in length
 - (3) Must contain a minimum area of 2,500 square feet that is adjacent to an internal street designed to provide adequate space for moving a manufactured home into and out of the space
 - (4) At least one parking space must be located on each manufactured home space.
 - (5) A required off-street parking space that is not located on a manufactured home space may be located in a common parking area.
 - (6) Common parking areas must be located throughout the park to provide reasonable and convenient access to all manufactured home spaces.
 - (7) A manufactured home and an attached accessory structure must be located at a distance of at least 10 feet from another manufactured home or other structure
 - (8) Must be separated from the pavement of an internal street, common parking area, or other common areas by a minimum distance of 10 feet
 - (9) Except where the boundary of the park abuts a public right of way or the boundary of the park abuts another manufactured home development, a barrier that is at least six feet high must be erected and maintained along all boundaries of the park
 - (10) A manufactured home chassis may not rest more than three feet above the ground elevation at the low end, measured at 90 degrees to the frame
 - (11) Except for necessary driveways and sidewalks providing access to the park, there must be a required, landscaped street setback
 - (12) A manufactured home park must provide pedestrian access to and from each manufactured home space and all common facilities.
 - (13) A sidewalk that is designed separately from internal streets or parking areas must have a minimum paved width of two feet.
 - (14) A manufactured home park shall contain at least 300 square feet of open space for each dwelling unit and comply with the requirements of this paragraph.
 - (a) At least 150 square feet of the 300 square feet required for each dwelling unit must be located on each manufactured home space.
 - (b) Open space that is not located on a manufactured home space may be located in common open space areas that are distributed throughout the park. The distribution must be in a manner that provides reasonable and convenient access to each manufactured home space.

- (G) **Site development regulations for manufactured home subdivisions.** A manufactured home subdivision designed for the placement of manufactured home dwellings on individually subdivided lots with frontage on a public street must comply with the site development regulations applicable to the R1B Zone.

(H) **License and Register**

(1) **License Required**

- (a) A person may not operate a manufactured home park without a manufactured home park license issued by the director.
- (b) The director may not issue a manufactured home park license unless:
 - (i) The fire chief approves the fire-fighting appliances, water supply, access ways, and all fire safety requirements; and
 - (ii) The applicant holds a certificate of compliance with site plan improvements.
- (c) A license issued under this section is void on the revocation or expiration of the site plan.
- (d) A manufactured home park licensee who sells, transfers, or disposes of an interest in or control of a manufactured home park shall:
 - (i) Give written notice to the director not later than the 14th day after the sale, transfer, or disposition; and
 - (ii) Not later than the 10th day after giving notice under this subsection, request that the director transfer the manufactured home park license.
 - (iii) The director shall act on a license transfer request not later than the 10th day after receiving the request. The director shall approve a license transfer if the manufactured home park complies with the requirements of this section.
 - (iv) A manufactured home park license expires one year after the date issued.

(2) **Annual Register**

- (a) A manufactured home park owner or licensee shall maintain an annual register of park occupants that includes the following information:
 - (i) The name and address of each park resident;
 - (ii) The resident's manufactured home registration data, including make, length, width, year of manufacture, and identification number;
 - (iii) The location of each manufactured home in the park by space or lot number and street address; and
 - (iv) The date of arrival and departure of each manufactured home.
- (b) A register compiled under Subsection (G)(2) must be retained on the premises of the park for a period of at least three years after the close of the year for which it was compiled.

- (I) **Tie-down of Manufactured Homes.** An occupant of a manufactured home in a manufactured home subdivision or park shall secure the manufactured home in a manner that complies with the Buildings Criteria Manual.

(J) Skirting, Porches, and Other Additions

- (1) An occupant of a manufactured home in a manufactured home subdivision or park shall maintain skirting, porches, awnings, and other additions in good repair.
- (2) The space immediately beneath a manufactured home may be used for storage only if the storage area is supported by a base of impervious material and the stored items do not interfere with the inspection of the underside of the manufactured home or the area underneath the manufactured home.

(K) Other Responsibilities**(1) Park Management**

- (a) A manufactured home owner or licensee shall operate the park in compliance with this Section and other applicable ordinances and shall provide adequate supervision to maintain the park, its facilities, and equipment in good repair and in a clean and sanitary condition.
- (b) The applicant or licensee shall notify park occupants of the provisions of this Section and their duties and responsibilities under this Section.
- (c) The applicant or licensee shall notify the Building Official of a violation of this Section.

(2) Park Occupants

- (a) An occupant of a manufactured home located in a manufactured home park shall comply with all requirements of this section.
- (b) The occupant shall maintain the manufactured home space, its facilities, and equipment in good repair and in a clean and sanitary condition.
- (c) The occupant shall place the manufactured home in its manufactured home stand and install utility connections in accordance with the instructions of the park management and in compliance with applicable codes.

(L) Notice to City

- (1) A manufactured home owner or licensee shall furnish a list of manufactured homes located in the park, on a form prescribed by the Tax Assessor, to the appropriate County Tax Assessor on the first day of January, no later than January 11th. The list must include the name and address of the owner of the manufactured home; the make, length, width, and year of manufacture of the manufactured home; and manufactured home identification number.
- (2) The applicant or licensee shall furnish the information required under Subsection (K)(1) to the appropriate Tax Assessor no later than July 11th of each year. For manufactured homes that have been moved into the park after January 1, the applicant or licensee shall also furnish the information required under Subsection (K)(1) to the Tax Assessor. For manufactured homes that were moved out of the park after January 1, including the date that the manufactured home was moved out of the park and the destination of that manufactured home.

- (M) Access for Repairs.** An occupant of a manufactured home park shall provide to the owner or licensee access to any part of the park at reasonable times for the purpose of making the repairs or alterations necessary to comply with this Section

(N) Permanent Residential Structure

- (1) Except as otherwise provided Subsections (M)(2) and (M)(3), the Building Official may not issue a permit for the construction or Occupancy of a permanent residential structure in a manufactured home park.
- (2) An existing residential structure may be retained or a new residential structure may be constructed for the occupancy of the owner or operator of the park.
- (3) An existing residence may be converted to a clubhouse, community center, or service building for use by the park residents.
- (4) A person affected by the Building Official's denial of a permit to construct or occupy a permanent residential structure under this Section may appeal the denial to the council.

(O) Site Requirements

- (1) A manufactured home stand in a manufactured home park must be installed in a manner that prevents the stand from heaving, shifting, or settling unevenly in the event of frost, inadequate drainage, vibration, or other force acting on the super-structure.
- (2) The exposed ground surface in a park must be paved, covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and eliminating dust.
- (3) The ground surface in a park must be graded and equipped to drain all surface water in a safe, efficient manner.
- (4) Unless provided in current manufactured home models, a park may provide storage facilities with a minimum capacity of 200 cubic feet for each manufactured home space on a manufactured home space or in a compound located within 100 feet of a space. A storage facility provided by a park under this Subsection must be designed in a manner that enhances the appearance of the park and must be faced with masonry, porcelainized steel, baked enamel steel, or other material of equal fire resistance, durability, and appearance. Storage outside the perimeter wall of a manufactured home must be provided in the manner described in this Subsection.

(P) Street Construction; Traffic Access and Circulation; Parking

- (1) A manufactured home park owner or licensee shall construct and maintain internal streets in the park at the owner or licensee's expense.
- (2) A park owner or licensee shall install parking control signs, street name signs, and other traffic control devices in the park at the owner's or licensee's expense.
- (3) Internal streets must be designed for safe and convenient access to each space and to the common-use facilities for park residents and internal streets must be kept free of obstruction.
- (4) The Police Department may issue a citation for a violation of this Section and may impound vehicles occupying the park in violation of this Section.
- (5) The owner or licensee shall erect metal signs indicating that parking is prohibited on all sections of internal streets on which parking is prohibited. The sign type, size, height, and location must be approved by the City Manager before installation.

- (6) An internal street must be designed by a licensed professional engineer in compliance with the Transportation Criteria Manual and must be approved by the Transportation Director before construction. Internal streets must be maintained by the owner or licensee free of cracks, holes, or other hazards.
- (7) An internal street must be designed and constructed in a manner that provides that no portion of a manufactured home is more than 200 feet from the internal street.
- (8) All streets in a park must be named and manufactured home spaces numbered to conform with block numbers on adjacent public streets. All street name signs must be of a reflective material and must be of a color and size contrasting with those on public streets. House numbers must be of reflective material. All street signs and manufactured home space numbers in a park must be of standard size and placement to facilitate locating addresses by emergency vehicles.
- (9) Interior streets must intersect adjoining public streets at approximately 90 degree angles and at locations that eliminate or minimize interference with traffic on the public streets.

(Q) Park Services

- (1) **Street Lighting.** The applicant or licensee shall provide street lighting along all internal streets in the manufactured home park.
- (2) **Fire Safety Standards**
 - (a) Liquefied petroleum gases may not be stored or dispensed in a manufactured home park unless they are handled and stored in compliance with the requirements of applicable City Codes.
 - (b) Gasoline, fuel oil, or other flammable liquids may not be stored or dispensed in a park unless they are handled and stored in compliance with Division 23-11B-7 (Fire Code).
 - (c) Approaches to manufactured homes must be kept clear.
 - (d) The applicant or licensee shall instruct the park staff in the use of the fire protection equipment in the park and in their specific duties in the event of fire.
 - (e) Water supply facilities for fire department operations must be connected to the city public water supply system unless the Council grants a special exception to use a private water supply system. If a private supply is used for service to the park, the private supply must be adequate for both domestic requirements and for fire fighting requirements established by the City. The Fire Chief shall determine the adequacy of the water supply for fire fighting requirements. A park owner or licensee may not use a private water supply unless it has sufficient volume and pressure to assure that the city water supply will not be required for fire fighting.
 - (f) A park owner or licensee shall provide standard city fire hydrants located within 500 feet of each manufactured home spaces, measured along the driveways and streets. The fire hydrants are subject to periodic inspection by the Fire Chief. A park owner or licensee shall immediately notify the Fire Chief of a fire hydrant in need of repair.
 - (g) A park owner or licensee shall provide an adequate system for the collection and safe disposal of rubbish that is approved by the Fire Chief and the Health Authority.

- (h) A park owner or licensee shall maintain the entire area of the park free of dry bush, leaves, and weeds.
- (3) **Potable Water Supply.** The applicant or licensee of a manufactured home park shall provide an accessible, adequate, and safe potable water supply to the park. The applicant or licensee shall connect the water supply for the park to the public supply of water unless the council grants a special exception to use a private water supply system. If a private water supply is used for service to the park, the private water supply must be adequate for both domestic requirements and for fire fighting requirements established by the City.
- (4) **Water Distribution System**
 - (a) The park's water supply system must be connected by pipes to all manufactured homes, buildings, and other facilities requiring water.
 - (b) The applicant or licensee of the park shall construct and maintain water piping, fixtures, and other equipment of the water distribution system in compliance with applicable state and City Codes.
- (5) **Standards for Water Riser Pipes and Connections.** Individual water riser pipes and connections must be installed and maintained in compliance with Division 23-11B-6 (Plumbing Code).
- (6) **Sewage Disposal**
 - (a) The applicant or licensee of a manufactured home park shall provide an adequate and safe sewerage system to convey and dispose of sewage
 - (b) The sewer system and any sewer lines for a park must be constructed in compliance with Division 23-11B-6 (Plumbing Code). A proposed sewage disposal facility must be approved by the Health Authority before construction. Unless specific prior approval is obtained from the Health Authority and the Texas Natural Resource Conservation Commission, sewage treatment effluent may not be discharged into any waters of the State.
 - (c) The applicant or licensee of a park shall provide each manufactured home stand with one sewer riser pipe with a minimum diameter of four inches. The sewer riser pipe and other sewer connections must be installed and maintained in compliance with the plumbing code. The sewer riser pipe must be located on a manufactured home stand in a manner that causes the sewer connection to the manufactured home drain outlet to approximate a vertical position. The applicant or licensee of a park shall plug the sewer riser pipe on a manufactured home space when no manufactured home occupies the space and divert surface drainage away from the riser.
- (7) **Electrical Wiring and Power Lines.** Electrical wiring and power distribution lines in a manufactured home park must be installed in compliance with Division 23-11B-4 (Electrical Code).
- (8) **Service Buildings and Other Community Service Facilities**
 - (a) This Section applies to management offices, repair shops, storage areas, sanitary facilities, laundry facilities, indoor recreation areas, commercial uses supplying essential goods or services for the benefit and convenience of park occupants, and other community service facilities.

- (b) A facility described in Subsection (a) must comply with all applicable City Codes. The facility must be properly protected from damage by ordinary uses and by decay, corrosion, termites, and other destructive elements. Exterior portions of the structure must be constructed to prevent moisture from entering the structure.
 - (c) The applicant or licensee of a park shall furnish hot and cold water to every lavatory, sink, bathtub, shower, and laundry fixture and cold water to every water closet and urinal.
 - (d) The owner or licensee of a park shall maintain service buildings at a comfortable temperature. Between October 1 and May 1, the applicant or licensee shall use heating equipment in compliance with Division 23-11B-9 (Property Maintenance Code), if necessary, to maintain a comfortable temperature.
 - (e) A cooking shelter, barbecue pit, fireplace, wood-burning stove, or incinerator must be located, constructed, maintained, and used in a manner that minimizes fire hazards and smoke nuisance in the park and on neighboring property. A person may not start or maintain an open fire in a park except in a facility constructed for that purpose. A person may not leave an open fire unattended. A person may not use a fuel or burn material in an open fire that emits dense smoke or objectionable odors.
- (9) **Refuse and Garbage Handling.** The applicant or licensee of a manufactured home park shall provide for the storage, collection, and disposal of refuse in the park in a manner that does not create a health hazard, rodent harborage, an insect breeding area, an accident or fire hazard, or air pollution

(10) **Insect and Rodent Control**

- (a) The applicant or licensee of a manufactured home park shall maintain the grounds, buildings, and structures in a park free of insect and rodent harborage and infestation. The owner or licensee of a park shall use an extermination method or insect and rodent control that complies with the requirements of the Health Authority.
- (b) The applicant or licensee of a park shall maintain the park free of accumulations of debris that may provide rodent harborage or insect breeding areas.
- (c) The applicant or licensee of a park shall control the growth of brush, weeds, and grass in the park to prevent rodent and insect harborage or other pests, and the growth of noxious weeds detrimental to health. Open areas must be maintained free of heavy undergrowth.

(11) **Fuel Supply and Storage**

- (a) A natural gas piping system installed in a manufactured home park must be installed underground and maintained in compliance with applicable codes. An owner or licensee that provides piped gas to a manufactured home space shall cap the outlet in a manner that prevents the accidental discharge of gas and in compliance with the plumbing code when the outlet is not in use.
- (b) A liquefied petroleum gas system may not be installed in a park unless the available natural gas system is more than 1,000 feet from the park. A liquefied petroleum gas system must be maintained in compliance with applicable state statutes and City Codes.

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Division 23-4D-4: Mixed-Use Zones

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23-4D-4010 Purpose

This division establishes the requirements for land use and building form for mixed use to zones, and reflects the community's vision to implement the Comprehensive Plan. These requirements are intended to ensure that proposed development is compatible with existing development and produces an environment of desirable character, consistent with the Comprehensive Plan and any applicable area plan.

23-4D-4020 Applicability

- (A) The requirements in this division apply to a lot zoned mixed use.
- (B) The uses allowed in mixed use zones are subject to the requirements of this division and any applicable regulations within Article 23-4E (Supplemental to Zones).

- (C) In addition to the requirements included within this division and Article 23-4E (Supplemental to Zones), a lot or use may also be subject to the following provisions in this Title:
- (1) Article 23-3C (Urban Forest Protection and Replenishment);
 - (2) Article 23-3D (Water Quality);
 - (3) Article 23-3E (Affordable Housing);
 - (4) Division 23-4E-2 (Outdoor Lighting);
 - (5) Division 23-4E-7 (Additional General Standards);
 - (6) Section 23-4E-8060 (Building Design);
 - (7) Chapter 23-8 (Signs); and
 - (8) Article 23-10E (Drainage).
- (D) The provisions identified in Subsection (C) may not be a complete list of requirements that apply to a lot or use. Failure to include a specific provision in Subsection (C) or anywhere else in this division does not exempt the lot or use from complying with the provision.

23-4D-4030 Allowed Uses and Permit Requirements

(A) Allowed Land Uses.

- (1) The following tables establish the land uses that are allowed in each mixed use zone:
 - (a) Table (A) (Allowed Uses in Mixed Use Zones MU1A-MU2B); and
 - (b) Table (B) (Allowed Uses in Mixed Use Zones MU3A-MU5A).
- (2) Each land use listed is defined in Article 23-2M (Definitions and Measurements).

- (B) **Permit Required.** If a table identifies a permit requirement for the land use, then a property may not be used in that manner until the property owner or property operator obtains a permit.

- (C) **Additional Requirements.** If a land use is subject to additional requirements, the table identifies the section within Division 23-4E-6 (Specific to Use) that applies.

- (D) If a land use is marked "N/A" or is not included in the table, it is not allowed in the mixed use zone.

#81, 82

23-4D-4030: Allowed Uses and Permit Requirements

PC Motion #81

Allow Senior Housing with less than 12 residents as a permitted use in all MU1 zones

Allow Senior Housing with greater than 12 residents as a MUP in MU1 zones.

PC Motion #82

Allow the following uses as a permitted use in all MU and MS zones except MU1A and MU1B: Residential Care Facilities, Senior/Retirement Housing, Work/Live, Library, Museum, or Public Art Gallery, Meeting Facility, Mobile Food Sales, General Retail Under 5,000 SF, Performance Venue/Theater, Live Music, Indoor Recreation (all sizes), Cooperative Housing, Group Residential, Manufactured Home, and all sizes of Daycares.

Table 23-4D-4030(A) Allowed Uses in Mixed-Use Zones MU1A–MU2B

Use Type	Specific to Use Requirements	MU1A	MU1B	MU1C	MU1D	MU2A	MU2B
(1) Residential							
Accessory Dwelling Unit - Residential	23-4E-6030	P	P	P	P	—	—
Accessory Dwelling Unit - Commercial	23-4E-6040	P	P	P	P	P	P
Bed and Breakfast	23-4E-6090	P	P	P	P	P	P
Cooperative Housing		P	P	P	P	P	P
Cottage Court	23-4E-6150	P	P	—	—	—	—
Duplex	23-4E-6170	P	P	P	P	P	P
Home Occupations	23-4E-6200	P	P	P	P	P	P
Multi-Family	23-4E-6250	P	P	P	P	P	P
Senior/Retirement Housing							
≤12	23-4E-6330	MUP	MUP	MUP	MUP	P	P
>12	23-4E-6330	—	—	—	—	P	P
Single-Family		P	P	P	P	—	—
Single-Family Attached		P	P	P	P	P	P
Short-term Rental							
Types 1	23-4E-6340	P	P	P	P	MUP	MUP
Types 2	23-4E-6340	P	P	P	P	—	—
Types 3	23-4E-6340	P	P	P	P	MUP	MUP
Townhouse		P	P	P	P	P	P
Work/Live	23-4E-6380	—	—	—	—	P	P
(2) Residential Support							
Emergency Shelter		—	—	—	—	P	P

Key for Table 23-4D-4030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-4030(A) Allowed Uses in Mixed-Use Zones MU1A–MU2B (continued)

Use Type	Specific to Use Requirements	MU1A	MU1B	MU1C	MU1D	MU2A	MU2B
Residential Care Facility		—	—	—	—	CUP	P
(3) Services							
Alternative Financial Services	23-4E-6080	—	—	—	—	CUP	P
Animal Service/Boarding							
Level 1		—	—	—	—	—	MUP
Level 2		—	—	—	—	—	—
Level 3		—	—	—	—	—	—
Business and Financial/Professional Services		CUP	CUP	CUP	CUP	CUP	P
Commercial Services and Repair							
No Outside Storage		CUP	CUP	CUP	CUP	CUP	P
w/ Incidental Outside Storage		—	—	—	—	—	—
Day Care							
Small <7		P	P	P	P	P	P
Large 7 ≥ and ≤20		CUP	CUP	CUP	CUP	P	P
Commercial		CUP	CUP	CUP	CUP	P	P
Drive Through, Retail, or Service Facility	23-4E-6160	—	CUP	—	CUP	CUP	CUP
Hospital		—	—	—	—	CUP	CUP
Hotel/Motel		—	—	—	—	CUP	CUP
Medical Services							
<2,500 sf		P	P	P	P	MUP	P
>2,500 sf		MUP	P	MUP	P	CUP	P
Personal Services							
Non-restricted		P	P	P	P	P	P
Restricted		—	—	—	—	—	—
(4) Office							

Key for Table 23-4D-4030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-4030(A) Allowed Uses in Mixed-Use Zones MU1A–MU2B (continued)

Use Type	Specific to Use Requirements	MU1A	MU1B	MU1C	MU1D	MU2A	MU2B
Office, General (non-medical)		P	P	P	P	P	P
(5) Civic and Public Assembly							
Government		—	—	—	—	MUP	MUP
Library, Museum, or Public Art Gallery		CUP	CUP	CUP	CUP	P	P
Meeting Facility (public or private)		CUP	CUP	CUP	CUP	P	P
Public Safety Facility		CUP	CUP	CUP	CUP	P	P
Religious Assembly Facility		P	P	P	P	P	P
School							
Business, or Trade	23-4E-6320	—	—	—	—	—	P
College or University	23-4E-6320	CUP	CUP	CUP	CUP	MUP	P
Private Primary	23-4E-6320	CUP	CUP	CUP	CUP	MUP	P
Private Secondary	23-4E-6320	CUP	CUP	CUP	CUP	MUP	P
Public Primary	23-4E-6320	P	P	P	P	P	P
Public Secondary	23-4E-6320	P	P	P	P	P	P
(6) Restaurant and Bars							
Bar/Nightclub							
Level 1		—	CUP	—	CUP	—	CUP
Level 2		—	—	—	—	—	—
Micro-Brewery/Micro-Distillery/ Winery		—	MUP	—	MUP	—	P
Mobile Food Sales	23-4E-6230	—	—	—	—	—	P
Restaurant							
w/o Alcohol Sales		MUP (5)	MUP (5)	P (5)	P (5)	P (5)	P
w/ Alcohol Sales	23-4E-6310	—	CUP	—	CUP	—	P
Drive Through	23-4E-6160	—	CUP	—	CUP	CUP	CUP

Key for Table 23-4D-4030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-4030(A) Allowed Uses in Mixed-Use Zones MU1A–MU2B (continued)

Use Type	Specific to Use Requirements	MU1A	MU1B	MU1C	MU1D	MU2A	MU2B
Late Night Operation	23-4E-6310	—	CUP	—	CUP	—	—
(7) Retail							
Alcohol Sales	23-4E-6070	—	CUP	—	CUP	—	—
Food Sales		P	P	P	P	P	P
General Retail							
≤ 5,000 sq ft		—	P	—	P	P	P
>5,000 and ≤10,000 sf		—	MUP	—	MUP	MUP	MUP
> 10,000 sf		—	—	—	—	—	—
w/ Onsite Production		—	CUP	—	CUP	—	CUP
w/ Outside Storage	23-4E-6190	—	—	—	—	—	—
Mobile Retail Sales	23-4E-6240	—	—	—	—	—	P
(8) Entertainment and Recreation							
Performance Venue/Theater	23-4E-6260						
Indoor	23-4E-6260						
≤2,500 sf	23-4E-6260	MUP	P	MUP	P	P	P
2,500-10,000 sf	23-4E-6260	CUP	MUP	CUP	MUP	MUP	MUP
> 10,000 sf	23-4E-6260	—	—	—	—	CUP	MUP
Outdoor	23-4E-6260						
≤ 2,500 sf	23-4E-6260	MUP	P	MUP	P	P	P
2,500-10,000 sf	23-4E-6260	—	MUP	—	MUP	MUP	MUP
> 10,000 sf	23-4E-6260	—	—	—	—	CUP	MUP
Recreation							
Indoor ≤ 5,000 sf	23-4E-6290	MUP	MUP	MUP	MUP	MUP	MUP
Indoor > 5,000 sf	23-4E-6290	CUP	CUP	CUP	CUP	CUP	CUP
Outdoor, Formal	23-4E-6290	CUP	CUP	CUP	CUP	CUP	CUP
Outdoor, Informal	23-4E-6290	P	P	P	P	P	P
Outdoor, Natural	23-4E-6290	P	P	P	P	P	P
Spectator Sport or Entertainment		—	—	—	—	CUP	CUP

Key for Table 23-4D-4030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-4030(A) Allowed Uses in Mixed-Use Zones MU1A–MU2B (continued)

Use Type	Specific to Use Requirements	MU1A	MU1B	MU1C	MU1D	MU2A	MU2B
Studio: art, dance, martial arts, music	23-4E-6370	P	P	P	P	P	P
(9) Industrial							
No Industrial uses allowed							
(10) Agriculture							
Community Agriculture	23-4E-6120	P	P	P	P	P	P
(11) Automobile Related							
Parking Facility		—	—	—	—	—	CUP
(12) Innovation and Technology							
No Innovation and Technology uses allowed							
(13) Other							
Accessory Uses	23-4E-6050	P	P	P	P	P	P
Communications	23-4E-6110	P	P	P	P	P	P
Helicopter and Non-fixed Wing Aircraft Facilities		—	—	—	—	CUP	CUP
Utilities							
Local		P	P	P	P	P	P
Major		—	—	—	—	—	—
Telecommunications	23-4E-6370	P	P	P	P	P	P
Temporary Uses	23-4B-1050	TUP	TUP	TUP	TUP	TUP	TUP
Special Uses	23-4E-6350	CUP	CUP	CUP	CUP	CUP	CUP

Key for Table 23-4D-4030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-4030(B) Allowed Uses in Mixed-Use Zones MU3A–MU5A						
Use Type	Specific to Use Requirements	MU3A	MU3B	MU4A	MU4B	MU5A
(1) Residential						
Accessory Dwelling Unit - Commercial	23-4E-6040	P	P	P	P	P
Bed and Breakfast	23-4E-6090	P	P	P	P	P
Cooperative Housing		P	—	—	—	P
Duplex	23-4E-6170	P	P	P	P	—
Group Residential		—	—	—	—	P
Home Occupations	23-4E-6200	P	P	P	P	P
Multi-Family	23-4E-6250	P	P	P	P	P
Senior/Retirement Housing						
≤12	23-4E-6330	P	P	P	P	—
>12	23-4E-6330	P	P	P	P	—
Single-Family Attached		P	P	P	P	—
Short-term Rental						
Types 1	23-4E-6340	—	—	—	—	P
Types 2	23-4E-6340	—	—	—	—	—
Types 3	23-4E-6340	—	—	—	—	P
Townhouse		P	P	P	P	P
Work/Live	23-4E-6380	P	P	P	P	MUP
(2) Residential Support						
Emergency Shelter		—	P	P	P	P
Residential Care Facility		P	P	P	P	P
Transitional and Supportive Housing		—	—	—	P	MUP

Key for Table 23-4D-4030(B)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-4030(B) Allowed Uses in Mixed-Use Zones MU3A–MU5A (continued)

Use Type	Specific to Use Requirements	MU3A	MU3B	MU4A	MU4B	MU5A
(3) Services						
Alternative Financial Services	23-4E-6080	CUP	CUP	CUP	P	—
Animal Service/Boarding						
Level 1		MUP	P	P	P	P
Level 2		—	CUP	CUP	P	P
Level 3		—	—	—	P	P
Business and Financial/Professional Services		P	P	P	P	P
Commercial Blood Plasma Center	23-4E-6100	—	—	—	P/CUP	P/CUP
Commercial Services and Repair						
No Outside Storage		—	P	P	P	P
w/ Incidental Outside Storage		—	MUP	MUP	P	P
Day Care						
Small <7		P	P	P	P	P
Large 7 ≥ and ≤20		P	P	P	P	P
Commercial		P	P	P	P	P
Drive Through, Retail, or Service Facility	23-4E-6160	—	CUP	CUP	MUP	P
Funeral/Mortuary Home		—	P	—	P	P
Hospital		CUP	P	MUP	P	P
Hotel/Motel		CUP	P	MUP	P	P
Medical Services						
<2,500 sf		P	P	P	P	P
>2,500 sf		P	P	P	P	P
Pawn Shops		—	P	CUP	P	P
Personal Services						
Non-restricted		P	P	P	P	P
Restricted		MUP	P	MUP	P	P
Personal Storage		—	—	—	P	P
(4) Office						
Office, General (non-medical)		P	P	P	P	P

Key for Table 23-4D-4030(B)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-4030(B) Allowed Uses in Mixed-Use Zones MU3A–MU5A (continued)

Use Type	Specific to Use Requirements	MU3A	MU3B	MU4A	MU4B	MU5A
(5) Civic and Public Assembly						
Government		MUP	P	P	P	P
Library, Museum, or Public Art Gallery		P	P	P	P	P
Meeting Facility (public or private)		P	P	P	P	P
Public Safety Facility		P	P	P	P	P
Religious Assembly Facility		P	P	P	P	P
School						
Business, or Trade	23-4E-6320	P	P	P	P	P
College or University	23-4E-6320	P	P	P	P	P
Private Primary	23-4E-6320	P	P	P	P	P
Private Secondary	23-4E-6320	P	P	P	P	P
Public Primary	23-4E-6320	P	P	P	P	P
Public Secondary	23-4E-6320	P	P	P	P	P
(6) Restaurant and Bars						
Bar/Nightclub						
Level 1		CUP	P	MUP	P	P
Level 2		—	MUP	CUP	P	MUP
Micro-Brewery/Micro-Distillery/Winery		P	P	P	P	P
Mobile Food Sales	23-4E-6230	P	P	P	P	P
Restaurant						
w/o Alcohol Sales		P	P	P	P	P
w/ Alcohol Sales	23-4E-6310	P	P	P	P	P
Drive Through	23-4E-6160	—	CUP	CUP	MUP	P
Late Night Operation	23-4E-6310	—	CUP	CUP	P	MUP

Key for Table 23-4D-4030(B)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-4030(B) Allowed Uses in Mixed-Use Zones MU3A–MU5A (continued)

Use Type	Specific to Use Requirements	MU3A	MU3B	MU4A	MU4B	MU5A
(7) Retail						
Alcohol Sales	23-4E-6070	—	MUP	MUP	P	P
Commercial Food Preparation		—	CUP	CUP	P	P
Food Sales		P	P	P	P	P
General Retail						
≤ 5,000 sq ft		P	P	P	P	P
>5,000 and ≤10,000 sf		MUP	P	P	P	P
> 10,000 and ≤ 100,000 sf		—	P	P	P	P
> 100,000 sf		—	CUP	CUP	CUP	CUP
w/ Onsite Production		CUP	P	P	P	P
w/ Outside Storage	23-4E-6190	—	CUP	CUP	P	P
Mobile Retail Sales	23-4E-6240	P	P	P	P	P
(8) Entertainment and Recreation						
Adult Entertainment	23-4E-6060	—	—	—	P/CUP	P/CUP
Recreational Vehicle Park	23-4E-6280	—	—	—	P	P
Performance Venue/Theater	23-4E-6260					
Indoor	23-4E-6260					
≤2,500 sf	23-4E-6260	P	P	P	P	P
2,500-10,000 sf	23-4E-6260	MUP	P	P	P	P
> 10,000 sf	23-4E-6260	MUP	P	P	P	P
Outdoor	23-4E-6260					
≤ 2,500 sf	23-4E-6260	P	P	P	P	P
2,500-10,000 sf	23-4E-6260	MUP	P	P	MUP	P
> 10,000 sf	23-4E-6260	CUP	MUP	CUP	MUP	P
Marina		—	—	—	—	—
Recreation						
Indoor ≤ 5,000 sf	23-4E-6290	MUP	P	P	P	P
Indoor > 5,000 sf	23-4E-6290	CUP	P	P	P	P
Outdoor, Formal	23-4E-6290	CUP	P	P	P	P
Outdoor, Informal	23-4E-6290	P	P	P	P	P
Outdoor, Natural	23-4E-6290	P	P	P	P	P
Spectator Sport or Entertainment		CUP	CUP	CUP	MUP	P
Studio: art, dance, martial arts, music	23-4E-6370	P	P	P	P	P

Key for Table 23-4D-4030(B)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-4030(B) Allowed Uses in Mixed-Use Zones MU3A–MU5A (continued)

Use Type	Specific to Use Requirements	MU3A	MU3B	MU4A	MU4B	MU5A
(9) Industrial						
Manufacturing and Storage						
Light	23-4E-6220	—	MUP	MUP	P	P
General	23-4E-6220	—	—	—	—	—
Restricted	23-4E-6220	—	—	—	—	—
(10) Agriculture						
Community Agriculture	23-4E-6120	P	P	P	P	P
Indoor Crop Production		—	—	—	P	—
(11) Automobile Related						
Automobile Sales, Rental, and Storage		—	MUP	CUP	P	P
Automobile Repair		—	P	CUP	P	P
Commercial Vehicle Storage and Dispatch		—	MUP	CUP	P	P
Gas Station	23-4E-6180	—	MUP	CUP	P	P
Heavy Equipment Sales						
Sales, Rental, and Storage		—	—	—	P	P
Repair		—	—	—	P	P
Parking Facility		—	P	MUP	P	P
Recreational and Sports Vehicle Sales, Rental, and Storage		—	—	—	—	P
(12) Innovation and Technology						
Research and Development						
Non-restricted	23-4E-6300	—	MUP	MUP	P	P
Restricted	23-4E-6300	—	—	—	—	—

Key for Table 23-4D-4030(B)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-4030(B) Allowed Uses in Mixed-Use Zones MU3A–MU5A (continued)

Use Type	Specific to Use Requirements	MU3A	MU3B	MU4A	MU4B	MU5A
(13) Other						
Accessory Uses	23-4E-6050	P	P	P	P	P
Communications	23-4E-6110	P	P	P	P	P
Helicopter and Non-fixed Wing Aircraft Facilities		CUP	CUP	CUP	CUP	CUP
Utilities						
Local		P	P	P	P	P
Major		—	—	—	—	—
Telecommunications	23-4E-6370	P	P	P	P	P
Temporary Uses	23-4B-1050	TUP	TUP	TUP	TUP	TUP
Transportation Facilities		—	—	—	—	—
Transit Terminal		—	—	—	CUP	CUP
Special Uses	23-4E-6350	CUP	CUP	CUP	—	—

Key for Table 23-4D-4030(B)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

23-4D-4040 Parking Requirements

- (A) **Parking Required.** Required off street parking in the Mixed-Use Zones is provided in Table 23-4D-4040(A) (Parking Standards for Commercial Zones).
- (B) **Parking Reductions.** See Section 23-4E-3060 (Off-street Motor Vehicle Parking Adjustments) for standards for parking adjustment from Table A (Parking Standards for Mixed-Use Zones).
- (C) **Parking Location Standards for MU2A–MU5A Zones.**
 - (1) Off-Street Parking Location Standards.
 - (a) Prohibited between the front property line and the portion of the building facade that satisfies the building placement requirements of Subsection (D) (Building Placement and Form) in the zone standards.
 - (b) Allowed between building and side property line, with screening in compliance with Division 23-4E-3 (Parking and Loading).
 - (2) **Exceptions to Off-Street Parking Location Standards.** For sites 400 feet deep or less, off-street parking may be located between the building frontage and the property line if at least 60 percent of the property's net frontage length is built up to the lot line.
 - (3) **Parking Location Standards – Corner Sites.** Surface parking is prohibited within the rectangular area formed by the setback lines as measured 100' back from the curb line corners (or the intersection of the curb line tangents), unless:
 - (a) A landscaped buffer is provided between the sidewalk and parking area in compliance with Division 23-4E-4 (Landscape); and
 - (b) 100% of the building frontage that faces the primary street is built to the property line.
- (D) **Maximum Number of Parking Spaces.** Developments over 10,000 square feet in floor area or containing 25 or more residential units shall not exceed the double the minimum number of parking spaces required. Maximum is calculated before any applicable parking reductions. Maximum does not apply to zones or land uses that require no off-street parking.

Table 23-4D-4040(A) Off-street Parking Requirements for Mixed-Use Zones

Use Type	Number of Required Off-street Parking Spaces
(1) Residential	
Accessory Dwelling Unit - Residential	none required
Accessory Dwelling Unit - Commercial	None required
Bed and Breakfast	1 plus 0.8 per bedroom
Cooperative Housing	1 plus 1 per every 4 bedrooms
Group Residential	1 plus 1 per every 3 bedrooms
Home Occupations	none required
Senior/Retirement Housing	0.8 per unit
Other allowed Residential uses	1 per unit

Table 23-4D-4040(A) Off-street Parking Requirements for Mixed-Use Zones (continued)

Use Type	Number of Required Off-street Parking Spaces
(2) Residential Support	
Emergency Shelter	As determined by the the Director
Residential Care Facility	0.8 per bedroom
Transitional and Supportive Housing	1 plus 1 per every 4 bedrooms
(3) Services	
Commercial Blood Plasma Center	1 per 350 sf
Drive Through, Retail, or Service Facility	None required
Funeral/Mortuary Home	1 space per each 5 persons capacity
Hospital	1 per every 4 beds, plus 1 per 500 sf
Hotel/Motel	1 per every 2 bedrooms, plus 1 per 500 sf of meeting space
Medical Services	1 per 350 sf
Personal Storage	1 per 1,000 sf
Other allowed Service uses	1 per 500 sf
(4) Office	
Office, General (non-medical)	1 per 500 sf
(5) Civic and Public Assembly	
Government	1 per 500 sf
Library, Museum, or Public Art Gallery	1 per 500 sf
Meeting facility (public or private)	1 per 500 sf
School	
Business, or Trade	1 space per staff member, plus 1 space for each 4 students enrolled
College or University	1 space per staff member, plus 1 space for each 4 students enrolled
Private Primary	1 space per staff member
Private Secondary	1 space per staff member, plus 1 space for each 4 students enrolled in grades 11 and 12
Public Primary	1 space per staff member
Public Secondary	1 space per staff member, plus 1 space for each 4 students enrolled in grades 11 and 12
Other allowed Civic and Public Assembly	As determined by the Director
(6) Restaurant and Bars	
Bar/Nightclub (level 1 and 2)	
First 2,500 sf of area	1 per 150 sf
For each square foot greater than 2,500 sf up to 10,000 sf	1 per 125 sf
For each square foot greater than 10,000 sf	1 per 100 sf
Micro-Brewery/Micro-Distillery/Winery	1 per 150 sf of tasting area, plus 1 per 1,000 sf of production area
Mobile Food Sales	None required

Table 23-4D-4040(A) Off-street Parking Requirements for Mixed-Use Zones (continued)

Use Type	Number of Required Off-street Parking Spaces
Restaurant	
First 2,500 sf of area	1 per 150 sf
For each square foot greater than 2,500 sf	1 per 125 sf
For Restaurants that provide no customer service or dining area	1 per 325
Drive Through	None required
(7) Retail	
Commercial Food Preparation	1 per 1000 sf
Food Sales	1 per 350 sf
Mobile Retail Sales	none required
Other allowed Retail uses	1 per 500 sf
(8) Entertainment and Recreation	
Adult Entertainment	1 per 500 sf
Recreational Vehicle Park	1 plus 1 per camping site
Studio: art, dance, martial arts, music	1 per 500 sf
Other allowed Entertainment and Recreation uses	As determined by the Director
(9) Industrial	
All allowed Industrial uses	1 per 1,000 sf of manufacturing, warehouse plus 1 per 250 sf of office or business area
(10) Agriculture	
All allowed Agriculture uses.	As determined by the Director
(11) Automobile Related	
Automobile Sales, Rental, and Storage	1 per 500 sf indoor sales floor, plus 1 per 750 sf outdoor sales lot
Automobile Repair	4 per service bay, plus 1 per 350 sf office space
Commercial Vehicle Storage and Dispatch	1 per 350 sf office/dispatch space
Gas Station	1 per each 2 fueling bays, plus 2 queue spaces per each fueling bay
Heavy Equipment Sales	
Sales, Rental, and Storage	1 per 1,000 sf, plus 1 per 250 sf of office or business area
Repair	1 per 1,000 sf, plus 1 per 250 sf of office or business area
Parking Facility	None required
Recreational and Sports Vehicle Sales, Rental, and Storage	1 per 500 sf indoor sales floor, plus 1 per 750 sf outdoor sales lot
(12) Innovation and Technology	
All allowed Innovation and Technology uses	1 per 275 sf
(13) Other	
All allowed Other uses	As determined by Director

23-4D-4050 General to Mixed-Use Zones

- (A) **Applicability.** The standards of this Section apply to all proposed development in compliance with this Division, unless otherwise provided in this Section. When in conflict, the standards of this Section supersede the standards of the base zone.
- (B) **Building Frontage and Placement**
 - (1) **Building Placement**
 - (a) Exemptions
 - (i) Drive-throughs. If a drive-through business has only one access point to a public thoroughfare, a circulation lane maximum 20 feet wide may be provided between the building and the property line. However, there must be a public sidewalk that crosses the circulation lane providing direct pedestrian access to the building entrance visible from the property line.
 - (ii) Restaurant or Gas Stations. Building placement standards do not apply to redevelopment of an existing pad site restaurant or gas station use that remains as a restaurant or gas station and the development occurs within the existing site configuration.
 - (iii) Narrow Interior Lots. Narrow interior lots less than 65 feet wide with only a single point of access to a public roadway are exempt from building placement standards.
 - (2) **Building Entrance**
 - (a) Exemptions. An entrance is not required if the following conditions are met:
 - (i) Minimum 80 percent of the net building frontage consists of building facade built to the minimum setback line;
 - (ii) The building has a continuous shaded sidewalk linking the sidewalk to the building entrance; and
 - (iii) The entrance is less than 100 feet from the property line.

- (3) **Alternate Active Private Frontage.** As an option, active private frontage may be used to substitute in whole, or in part, for the placement standards in required in the zone. Active private frontage must conform to the standards of this Subsection. See Figure 23-4D-4050(1) (Building Placement and Alternative) for reference.

(a) Active private frontage areas must include one or more of the following amenities:

- (i) Accessory outdoor dining, provided that the dining area is separated from the public right-of-way only with planters, shrubs, or fencing with a maximum height of 42 inches;
- (ii) Balconies, pedestrian sidewalks, porches, accessible ramps, and stoops; provided that no such feature must extend into the public right-of-way without a license agreement;
- (iii) Terraces (see Section 23-4E-1100 [Terrace] for standards);
- (iv) Landscape and water features;
- (v) Plazas; and
- (vi) Incidental display and sales.

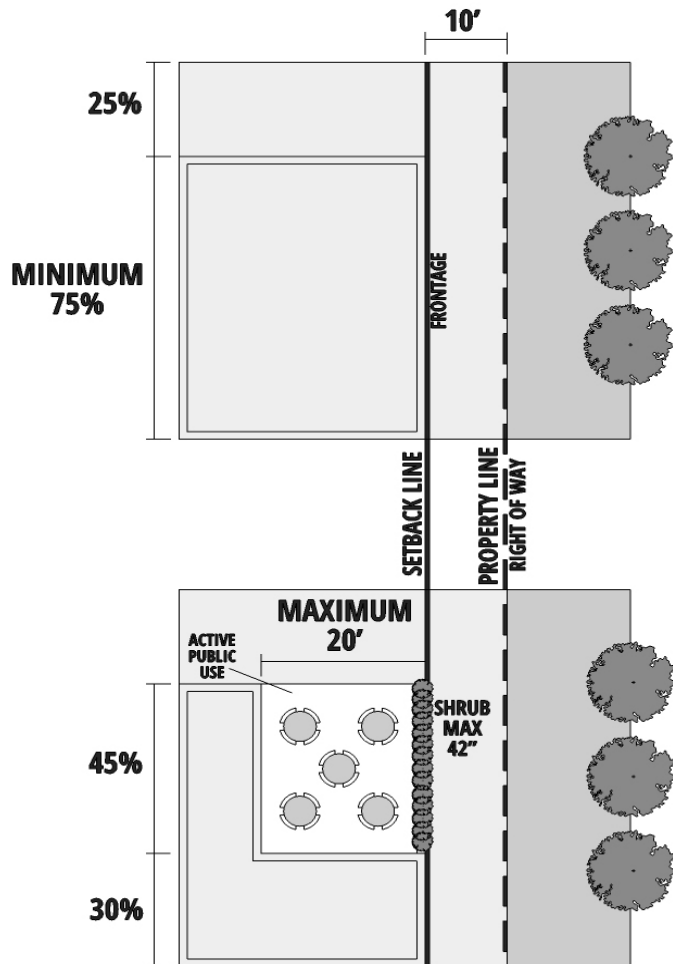


Figure 23-4D-4050(1) Building Placement and Alternative

- (b) Any amenities provided in active public use areas must not obstruct the open pedestrian connection between the building's primary entrance and the sidewalk.

23-4D-4060 Mixed-Use 1A (MU1A) Zone

- (A) **Purpose.** Mixed-use 1A (MU1A) zone is intended to allow housing and office or service employment within walking distance of low-intensity residential neighborhoods, or to maintain an area with an existing pattern of commercial uses in house-scale buildings.
- (B) **Overview.** This zone allows residential, office and limited commercial uses in detached house scale buildings. It can be summarized as:
 - (1) not eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone may require additional setbacks but do not require height stepbacks.
- (C) **Requirements.** A lot zoned mixed-use 1A shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



MU1A

Table 23-4D-4060(A) Lot Size and Intensity

Allowed Use	Lot				Building	
	Principal Dwelling Units Per Acre (max.)		Width (min.)	Area (min.)	Size (max.)	
	Base Standard	AHBP Bonus ¹			Base Standard The less restrictive shall apply between:	AHBP Bonus
Single-Family	8	+0	40'	5,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Single-Family Attached	18	+0	25'	2,500 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	18	+0	50'	5,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Cottage Court	24	+0	50'	5,000 sf	0.6 FAR	+0 FAR
Multi-Family	24	+12	50'	5,000 sf	0.4 FAR or 2,300 sf	+0.6 FAR
Townhouse	24	+0	18'	1,800 sf	0.4 FAR or 1,500 sf	+0 FAR
Other Allowed Uses	—	+0	50'	5,000 sf	1 FAR	+0 FAR
Accessory Allowed Use	Lot Size				Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf				750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf				975 sf	
Accessory Dwelling Unit	7,000 sf or greater				1,100 sf	

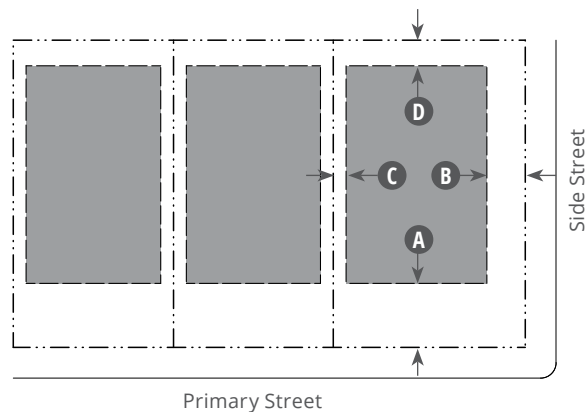
Only one Accessory Dwelling Unit may be built and does not count towards principal Units per Acre limit.

Accessory Dwelling Unit size counts towards the principal use's FAR limit.

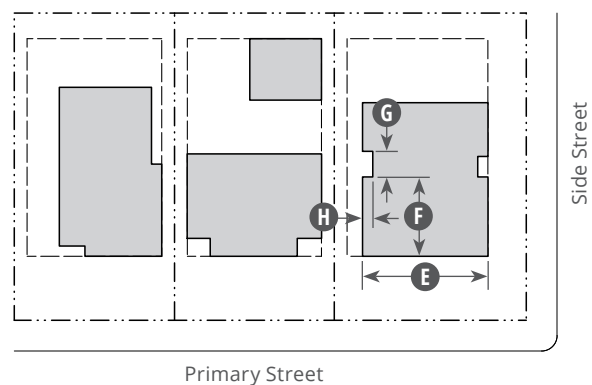
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.

¹ To receive an affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line

■ Buildable Area

--- Building Setback Line

Building Footprint

Table 23-4D-4060(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front (A)	Side St. (B)	Side (C)	Rear (D)
--	---------------------	------------------------	--------------------	--------------------

Minimum	25'	15'	5'	5'
Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions)				

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front	St.	Side	Rear
	A	B	C	D
For lots ≤ 75' wide	25'	15'	15'	30'
For lots > 75' wide	25'	15'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-4060(C) Building Form

(1) Building Width		
Maximum	60'	E

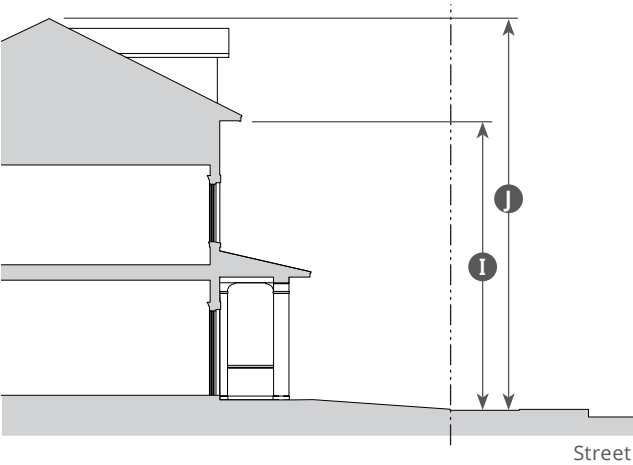
(2) Building Articulation on Additions and New Construction

Articulation is required for three facades of a building.

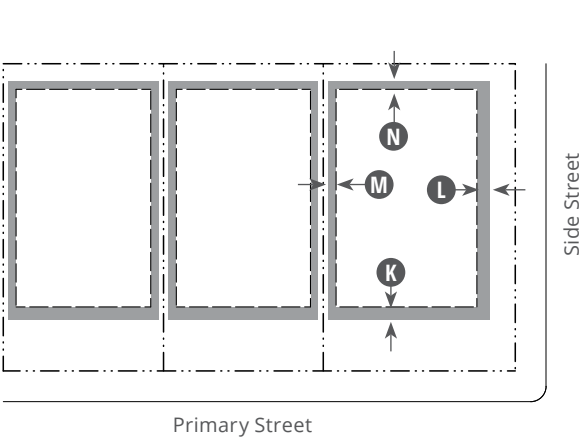
(3) Facades, All Stories

Facade Length without Articulation (max.)	36'	F
Articulation Length (min.)	10'	G
Articulation Depth (min.)	4'	H

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-4060(D) Height		
(1) Primary and Accessory Buildings		
To Top Plate (max.)	22'	I
Overall (max.)	32'	J
(2) Accessory Structure		
Overall (max.)	12'	

Table 23-4D-4060(E) Encroachments				
(1) Encroachment Type	Front	Side St.	Side	Rear
	(max.)	(max.)	(max.)	(max.)
	K	L	M	N
Private Frontage	5'	5'	—	—
Steps and/or ramps to Building Entrance	5'	5'	—	—
Architectural Features	3'	3'	3'	3'
Porch, Stoop, or Uncovered Steps ¹	—	5'	—	—

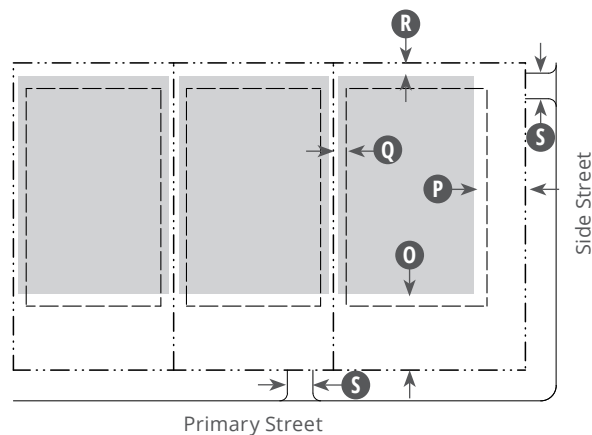
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ 3' max above ground.

(2) Height Encroachments
See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-4060(F) Parking**(1) Parking Requirements**

See Section 23-4D-4040 (Parking Requirements) for standards.

(2) Setback	Front O	Side St. P	Side Q	Rear R
At-Grade and				
Above-Grade	30' ¹	20'	2'	5'
Below-Grade	25'	15'	5'	5'

(3) Parking Driveway

Width 10' max. **S**

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Garage doors along the front facade of the primary building must occupy no more than one-third the width of the front facade.

¹ Required parking space(s) must not be located in front of the front facade of the building.

Table 23-4D-4060(G) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Porch: Projecting	A	A	23-4E-1040
Porch: Engaged	A	A	23-4E-1050
Stoop	—	A	23-4E-1060

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

(2) Pedestrian Access

All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-4060(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	70% ²	23-3D-3
Building Cover	50%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		

²The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-4060(I) Open Space			
(1) Open Space Type	Area per Unit (min.)		
Personal ³	100 sf		
(2) Open Space Location	Width (min.)	Depth (min.)	Area (min.)
Ground level	10'	10'	100 sf
Above ground	5'	5'	50 sf

Personal open space requirement may be met by ground floor personal open space, upper story balcony, or roof deck.

Personal open space requirements must not be met by open space provided in required front or side street setbacks.

³The Cottage Court Use has additional open space standards. See Section 23-4E-6160 (Cottage Court).

23-4D-4070 Mixed-Use 1B (MU1B) Zone

- (A) **Purpose.** Mixed-use 1B (MU1B) zone is intended to allow housing, office or service employment, and retail and entertainment within walking distance of low intensity residential neighborhoods, or to maintain an area with an existing pattern of commercial uses in house-scale buildings.
- (B) **Overview.** This zone allows residential, office, and a broad array of commercial uses in detached house scale buildings. It can be summarized as:
- (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone may require additional setbacks but do not require height stepbacks.
- (C) **Requirements.** A lot zoned mixed-use 1B shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



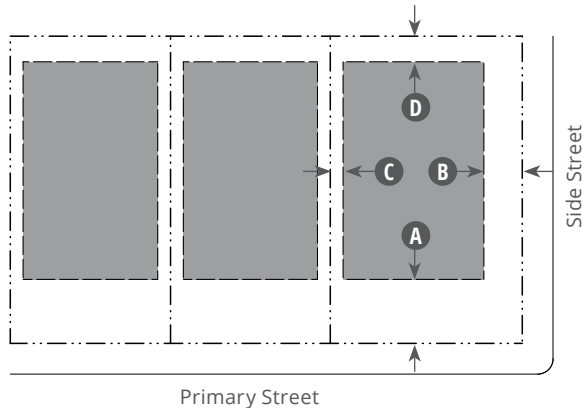
MU1B

Table 23-4D-4070(A) Lot Size and Intensity

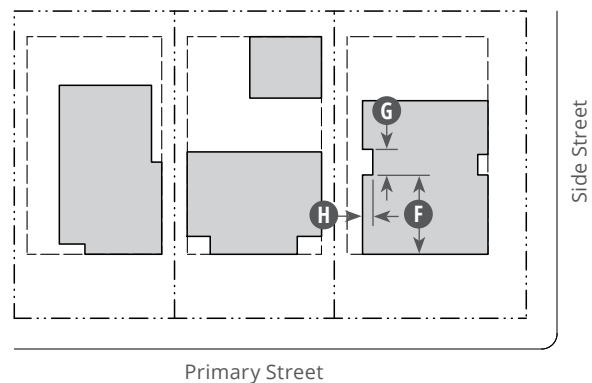
Allowed Use	Lot				Building	
	Principal Dwelling Units Per Acre (max.)				Size (max.)	
	Base Standard	AHBP Bonus ¹	Width (min.)	Area (min.)	Base Standard The less restrictive shall apply between:	AHBP Bonus ¹
Single-Family	8	+0	40'	5,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Single-Family Attached	18	+0	25'	2,500 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	18	+0	50'	5,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Cottage Court	24	+0	50'	5,000 sf	0.6 FAR	+0 FAR
Multi-Family	24	+12	50'	5,000 sf	0.4 FAR or 2,300 sf	+0.6 FAR
Townhouse	24	+0	18'	1,800 sf	0.4 FAR or 1,500 sf	+0 FAR
Other Allowed Uses	—	+0	50'	5,000 sf	1 FAR	+0 FAR
Accessory Allowed Use	Lot Size				Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf				750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf				975 sf	
Accessory Dwelling Unit	7,000 sf or greater				1,100 sf	
Only one Accessory Dwelling Unit may be built and does not count towards principal Units per Acre limit.						
Accessory Dwelling Unit size counts towards the principal use's FAR limit.						
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.						

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line

■ Buildable Area

--- Building Setback Line

■ Building Footprint

Table 23-4D-4070(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25'	15'	5'	5'

Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions)

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
For lots ≤ 75' wide	25'	15'	15'	30'
For lots > 75' wide	25'	15'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-4070(C) Building Form

(1) Overall Building Envelope

Width (max.)	60'	E
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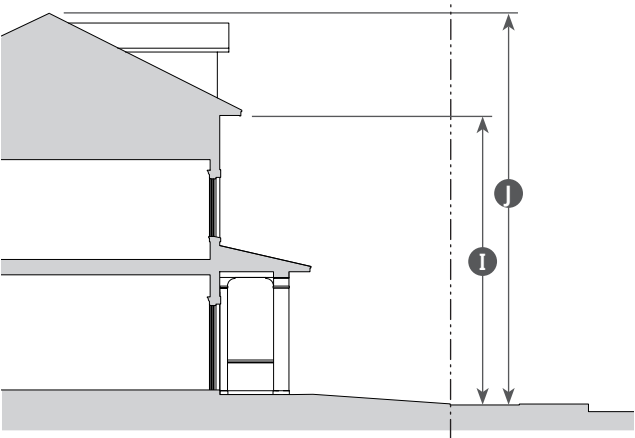
(2) Building Articulation on Additions and New Construction

Articulation is required for three facades of a building.

(3) Facades, All Stories

Facade Length without Articulation (max.)	36'	F
Articulation Length (min.)	10'	G
Articulation Depth (min.)	4'	H

Building Height Diagram

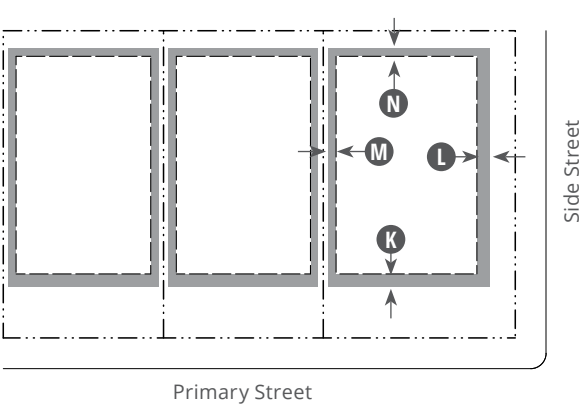


Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Table 23-4D-4070(D) Height		
(1) Primary and Accessory Buildings		
To Top Plate (max.)	22'	I
Overall (max.)	32'	J
(2) Accessory Structure		
Overall (max.)	12'	

Encroachments Diagram



Encroachment

Table 23-4D-4070(E) Encroachments				
(1) Encroachment Type	Front	Side St.	Side	Rear
	(max.)	(max.)	(max.)	(max.)
	K	L	M	N
Private Frontage	10'	10'	—	—
Steps and/or ramps to Building Entrance	5'	5'	—	—
Architectural Features	3'	3'	3'	3'
Porch, Stoop, or Uncovered Steps ¹	—	5'	—	—

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

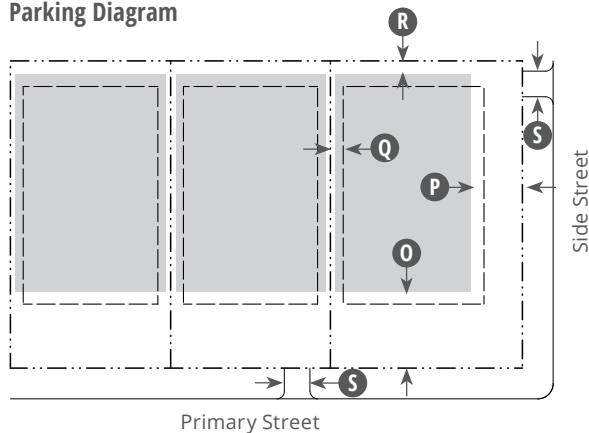
Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ 3' max above ground.

(2) Height Encroachments
See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Parking Diagram



Key for Diagrams

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-4070(F) Parking

(1) Parking Requirements

See Section 23-4D-4040 (Parking Requirements) for standards.

(2) Setback	Front O	Side St. P	Side Q	Rear R
At-Grade and Above-Grade	30' ¹	20'	2'	5'
Below-Grade	25'	15'	5'	5'

(3) Parking Driveway

Width 10' max. S

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Garage doors along the front facade of the primary building must occupy no more than one-third the width of the front facade.

¹ Required parking space(s) must not be located in front of the front facade of the building.

Table 23-4D-4070(G) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Porch: Projecting	A	A	23-4E-1040
Porch: Engaged	A	A	23-4E-1050
Stoop	A	A	23-4E-1060

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

(2) Pedestrian Access

All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-4070(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	70% ²	23-3D-3
Building Cover	50%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		

²The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-4070(I) Open Space			
(1) Open Space Type	Area per Unit (min.)		
Personal ³	100 sf		
(2) Area Requirements	Width (min.)	Depth (min.)	Area (min.)
Ground level	10'	10'	100 sf
Above ground	5'	5'	50 sf

Personal open space requirement may be met by ground floor personal open space, upper story balcony, or roof deck.

Personal open space requirements must not be met by open space provided in required front or side street setbacks.

³The Cottage Court Use has additional open space standards. See Section 23-4E-6160 (Cottage Court).

23-4D-4080 Mixed-Use 1C (MU1C) Zone

- (A) **Purpose.** Mixed-use 1C (MU1C) zone is intended to allow housing and office or service employment within walking distance of medium-intensity residential neighborhoods, or to maintain an area with an existing pattern of commercial uses in house scale buildings.
- (B) **Overview.** This zone allows residential, office, and limited commercial uses in detached house scale buildings. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone may require additional setbacks but do not require height stepbacks.
- (C) **Requirements.** A lot zoned mixed-use 1C shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



MU1C

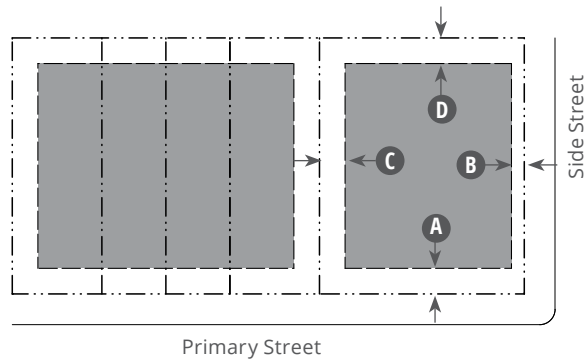
Table 23-4D-4080(A) Lot Size and Intensity

Allowed Use	Lot				Building	
	Principal Dwelling Units Per Acre (max.)				Size (max.)	
	Base Standard	AHBP Bonus ¹	Width (min.)	Area (min.)	Base Standard The less restrictive shall apply between:	AHBP Bonus ¹
Single-Family	12	+0	35'	3,500 sf	0.4 FAR or 2,300 sf	+0 FAR
Single-Family Attached	18	+0	20'	2,000 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	18	+0	40'	4,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Townhouse ²	24	+0	18'	1,800 sf	0.4 FAR or 1,750 sf	+0 FAR
Multi-Family	24	+12	75'	7,500 sf	0.8 FAR	+0.8 FAR
Other Allowed Uses	—	+0	40'	4,000 sf	1 FAR	+0 FAR
Accessory Allowed Use		Lot Size			Size (max.)	
Accessory Dwelling Unit		3,500 to 4,999 sf			750 sf	
Accessory Dwelling Unit		5,000 to 6,999 sf			975 sf	
Accessory Dwelling Unit		7,000 sf or greater			1,100 sf	
Only one Accessory Dwelling Unit may be built and does not count towards principal Units per Acre limit.						
Accessory Dwelling Unit size counts towards the principal use's FAR limit.						
Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.						
¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).						

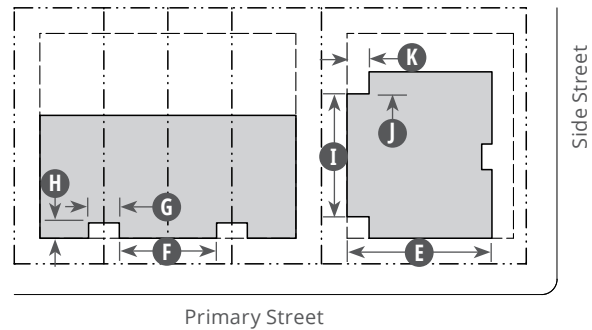
¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

² Shall be built in a run with a minimum of 3 attached buildings.

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line

■ Buildable Area

--- Building Setback Line

■ Building Footprint

Table 23-4D-4080(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25'	15'	5'	5'

Front and side street setback exceptions are provided in Section 23-4E-7070 (Setback Exceptions)

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

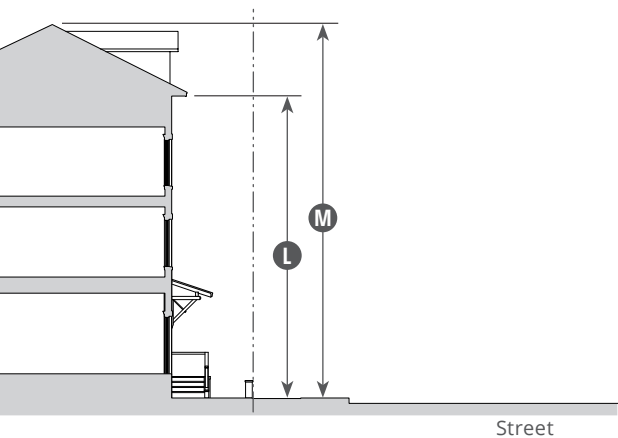
(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 75' wide	25'	15'	15'	30'
Lots > 75' wide	25'	15'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-4080(C) Building Form

(1) Overall Building Envelope	
Width (max.)	80' E
(2) Building Articulation on Additions and New Construction	
Articulation is required for three facades of a building.	
(3) Primary Street Facade(s), All Stories	
Facade Length without Articulation (max.)	60' F
Articulation Length (min.)	12' G
Articulation Depth (min.)	6' H
(4) Other Facades, All Stories	
Facade Length without Articulation (max.)	48' I
Articulation Length (min.)	10' J
Articulation Depth (min.)	4' K

Building Height Diagram

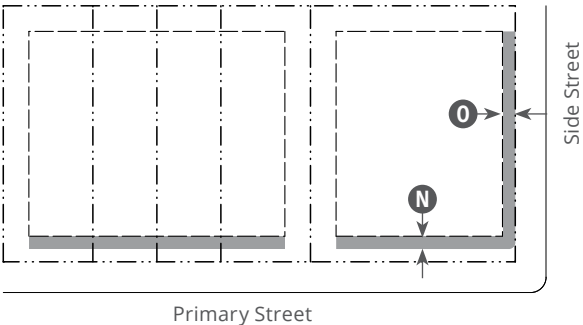


Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Table 23-4D-4080(D) Height		
(1) Primary and Accessory Buildings		
To Top Plate (max.)	35'	L
Overall (max.)	45'	M
(2) Accessory Structure		
Overall (max.)	12'	

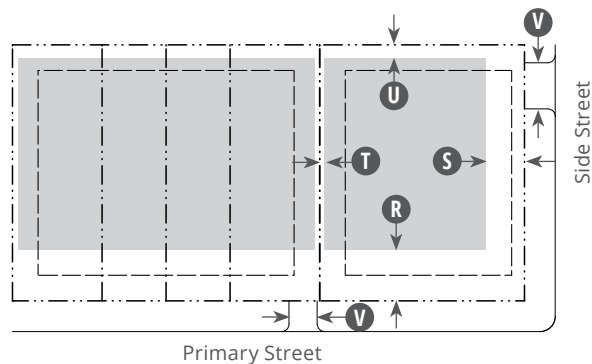
Encroachments Diagram



Encroachment

Table 23-4D-4080(E) Encroachments				
(1) Encroachment Type	Front	Side St.	Side	Rear
	(max.)	(max.)	(max.)	(max.)
	N	O	P	Q
Private Frontage	5'	5'	—	—
Architectural Features	3'	3'	—	—
Porch, Stoop, or Uncovered Steps ¹	—	5'	—	—
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				
Landscaping may be located in a required setback.				
Encroachments within a right-of-way, public easement, or utility easement require a license agreement or encroachment agreement.				
¹ 3' max above ground.				
(2) Height Encroachments				
See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.				

Parking Diagram



Key for Diagrams

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-4080(F) Parking

(1) Parking Requirements

See Section 23-4D-4040 (Parking Requirements) for standards.

(2) Setback	Front R	Side St. S	Side T	Rear U
At-Grade and				
Above-Grade	25' ¹	15'	2'	5'
Below-Grade	25'	15'	5'	5'

(3) Parking Driveway

Width 10' max. V

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Garage doors along the front facade of the primary building must occupy no more than one-third the width of the front facade.

¹ Required parking space(s) must not be located in front of the front facade of the building.

Table 23-4D-4080(G) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Porch: Projecting	A	A	23-4E-1040
Porch: Engaged	A	A	23-4E-1050
Stoop	A	A	23-4E-1060
Dooryard	A	A	23-4E-1070

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

(2) Pedestrian Access

All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-4080(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	70% ²	23-3D-3
Building Cover	50%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		

²The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-4080(I) Open Space			
(1) Open Space Type	Width (min.)	Depth (min.)	Percentage (min.)
Common ³	8'	10'	5% gross site area

Common open space requirement may be met by ground floor, upper floor, and/or roof common open space.

Common open space requirements must not be met by open space provided in required front or side-street setbacks, except when provided as an open space as set forth in Division 23-4C-2 (Civic and Open Spaces).

³ The Courtyard building type has additional open space standards. See Section 23-4D-2220 (Supplementary Courtyard Building Type Standards).

23-4D-4090 Mixed-Use 1D (MU1D) Zone

- (A) **Purpose.** Mixed-use 1D (MU1D) zone is intended to allow housing, office or service employment, and retail and entertainment within walking distance of medium-intensity residential neighborhoods, or to maintain an area with an existing pattern of commercial uses in house scale buildings.
- (B) **Overview.** This zone allows residential, office, and a broad array of commercial uses in detached house scale buildings. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone may require additional setbacks but do not require height stepbacks.
- (C) **Requirements.** A lot zoned mixed-used 1D shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



MU1D

Table 23-4D-4090(A) Lot Size and Intensity

Allowed Use	Lot				Building	
	Principal Dwelling Units Per Acre (max.)		Width (min.)	Area (min.)	Size (max.)	
	Base Standard	AHBP Bonus ¹			Base Standard The less restrictive shall apply between:	AHBP Bonus ¹
Single-Family	12	+0	35'	3,500 sf	0.4 FAR or 2,300 sf	+0 FAR
Single-Family Attached	18	+0	20'	2,000 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	18	+0	40'	4,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Townhouse ²	24	+0	18'	1,800 sf	0.4 FAR or 1,750 sf	+0 FAR
Multi-Family	24	+12	75'	7,500 sf	0.8 FAR	+0.8 FAR
Other Allowed Uses	—	+0	40'	4,000 sf	1 FAR	+0 FAR
Accessory Allowed Use	Lot Size				Size (max.)	
Accessory Dwelling Unit	3,500 to 4,999 sf				750 sf	
Accessory Dwelling Unit	5,000 to 6,999 sf				975 sf	
Accessory Dwelling Unit	7,000 sf or greater				1,100 sf	

Only one Accessory Dwelling Unit may be built and does not count towards principal Units per Acre limit.

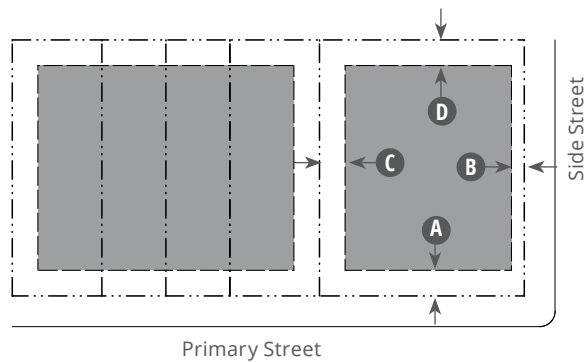
Accessory Dwelling Unit size counts towards the principal use's FAR limit.

Preservation Incentive: Accessory Dwelling Unit does not count toward FAR limit when existing house (at least 10 years old) is preserved.

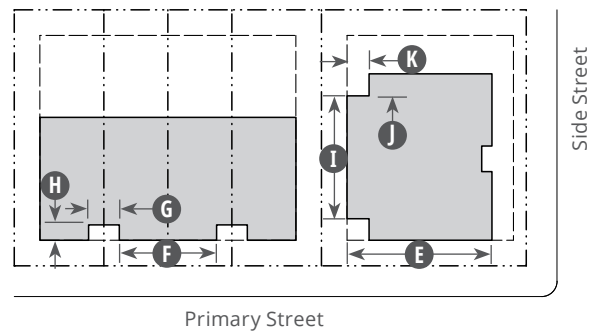
¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

² Shall be built in a run with a minimum of 3 attached buildings.

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line

■ Buildable Area

--- Building Setback Line

■ Building Footprint

Table 23-4D-4090(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25'	15'	5'	5'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback

Side

	Front A	St. B	Side C	Rear D
Lots ≤ 75' wide	25'	15'	15'	30'
Lots > 75' wide	25'	15'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-4090(C) Building Form

(1) Overall Building Envelope

Width (max.)	80'	E
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(2) Building Articulation on Additions and New Construction

Articulation is required for three facades of a building.

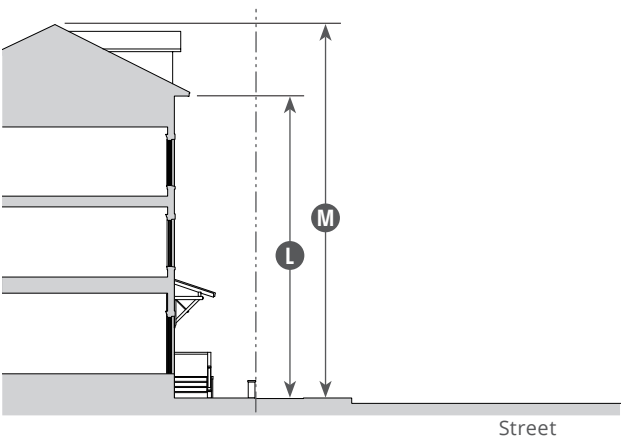
(3) Primary Street Facade(s), All Stories

Facade Length without Articulation (max.)	60'	F
Articulation Length (min.)	12'	G
Articulation Depth (min.)	6'	H

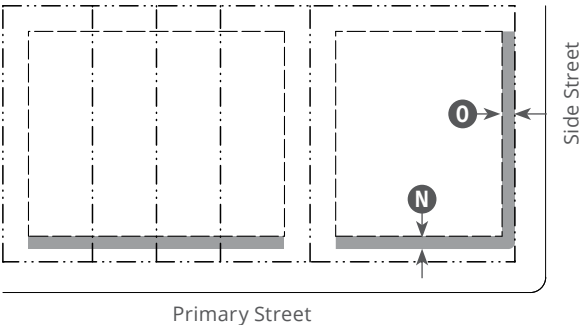
(4) Other Facades, All Stories

Facade Length without Articulation (max.)	48'	I
Articulation Length (min.)	10'	J
Articulation Depth (min.)	4'	K

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Encroachment

Table 23-4D-4090(D) Height

(1) Primary and Accessory Buildings

To Top Plate (max.)	35'	L
Overall (max.)	45'	M

(2) Accessory Structure

Overall (max.)	12'
----------------	-----

Table 23-4D-4090(E) Encroachments

(1) Encroachment Type	Front (max.)	Side St. (max.)	Side (max.)	Rear (max.)
	N	O	P	Q
Private Frontage	5'	5'	—	—
Architectural Features	3'	3'	—	—
Porch, Stoop, or Uncovered Steps ¹	—	5'	—	—

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

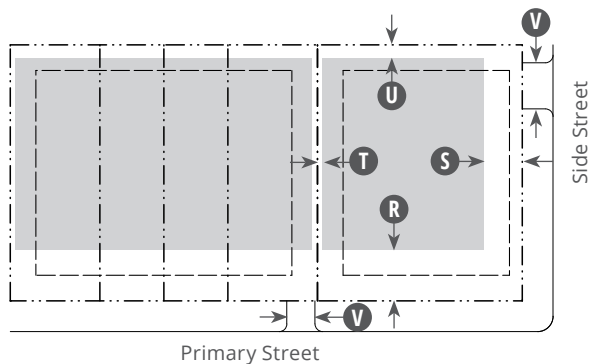
Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ 3' max above ground.

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Parking Diagram



Key for Diagrams

- ROW / Lot Line
--- Building Setback Line

■ Parking Area

Table 23-4D-4090(F) Parking

(1) Parking Requirements

See Section 23-4D-4040 (Parking Requirements) for standards.

(2) Setback	Front R	Side St. S	Side T	Rear U
At-Grade and Above-Grade	25' ¹	15'	2'	5'
Below-Grade	25'	15'	5'	5'

(3) Parking Driveway

Width 10' max. V

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Garage doors along the front facade of the primary building must occupy no more than one-third the width of the front facade.

¹ Required parking space(s) must not be located in front of the front facade of the building.

Table 23-4D-4090(G) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Porch: Projecting	A	A	23-4E-1040
Porch: Engaged	A	A	23-4E-1050
Stoop	A	A	23-4E-1060
Dooryard	A	A	23-4E-1070

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

(2) Pedestrian Access

All units must have pedestrian access from the primary street, or for corner lots, from the primary street or side street.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-4090(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	80% ²	23-3D-3
Building Cover	60%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		

²The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-4090(I) Open Space			
(1) Open Space Type	Width (min.)	Depth (min.)	Percentage (min.)
Common ³	8'	10'	5% gross site area
Common open space requirement may be met by ground floor, upper floor, and/or roof common open space.			
Common open space requirements must not be met by open space provided in required front or side-street setbacks, except when provided as an open space as set forth in Division 23-4C-2 (Civic and Open Spaces).			

³ The Courtyard building type has additional open space standards. See Section 23-4D-2220 (Supplementary Courtyard Building Type Standards).

23-4D-4100 Mixed-Use 2A (MU2A) Zone


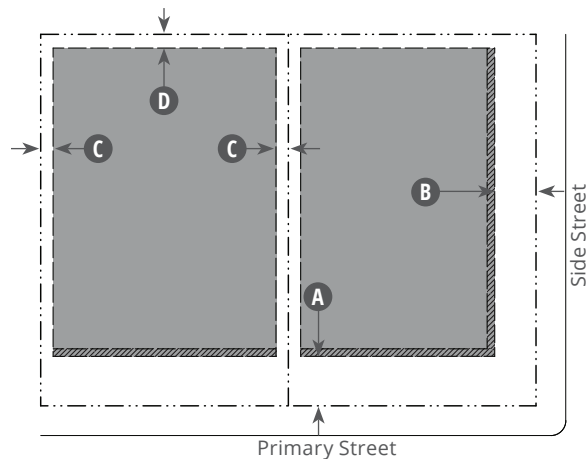
- 
- (A) **Purpose.** Mixed-use 2A (MU2A) zone is intended to provide convenient access to employment, shopping and daily services, and neighborhood amenities for nearby residents.
 - (B) **Overview.** This zone allows residential, low-intensity office, service, and retail uses. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone require height stepbacks and additional setbacks.
 - (C) **Requirements.** A lot zoned mixed-use 2A shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover);
 - (9) Table (I) (Open Space);
 - (10) Table (J) (Additional Compatibility); and
 - (11) Table (K) (Special Requirements for Uses).
 - (D) **Subzone Requirements.** In addition to the requirements in Table (A) (Lot Size and Intensity), the following requirements apply:
 - (1) For a lot with the "-A" subzone and does not participate in the affordable housing bonus program.
 - (a) The lot shall have no base entitlement for dwelling units.
 - (2) For a lot with the "-A" subzone and participates in the affordable housing bonus program.
 - (a) The **total bonus is the** combined base standard dwelling units plus the bonus provided by the affordable housing bonus program as listed in Table (A) (Lot Size and Intensity).
 - (b) **The maximum units per acre shall not exceed the total bonus units per acre.**
 - (c) **The set aside requirements shall be calculated as a percent of the total bonus, using Table 23-3E-1040(C): Affordable Unit Set Aside Requirements in For-Sale Properties or Table 23-3E-1040(E): Affordable Unit Set Aside Requirements in For-Rent Properties in "-A" Zones.**

Table 23-4D-4100(A) Lot Size and Intensity						
Allowed Use	Lot				Building	
	Principal Dwelling Units Per Acre (max.)		Width (min.)	Area (min.)	Size (max.)	
	Base Standard ¹	AHBP Bonus ²			Base Standard The less restrictive shall apply between:	AHBP Bonus ²
Single-Family						
Attached	18	+0	20'	2,000 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	18	+0	40'	4,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Multi-Family	18	+18	60'	6,000 sf	0.7 FAR	+0.8 FAR
Townhouse	18	+0	24'	2,400 sf	0.4 FAR or 1,750 sf	+0 FAR
Work/Live	18	+0	24'	2,400 sf	0.4 FAR or 1,750 sf	+0 FAR
Other Allowed Uses	—	+0	50'	5,000 sf	0.7 FAR	+0.8 FAR

¹ Lots zones with the "-A" subzone shall comply with the requirements of Subsection (D)

² To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram**Key for Diagrams**

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

Table 23-4D-4100(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	15'	15'	5'	5'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback

	Front A	Side St. B	Side C	Rear D
Lots ≤ 75' wide	15'	15'	15'	30'
Lots > 75' wide	15'	15'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

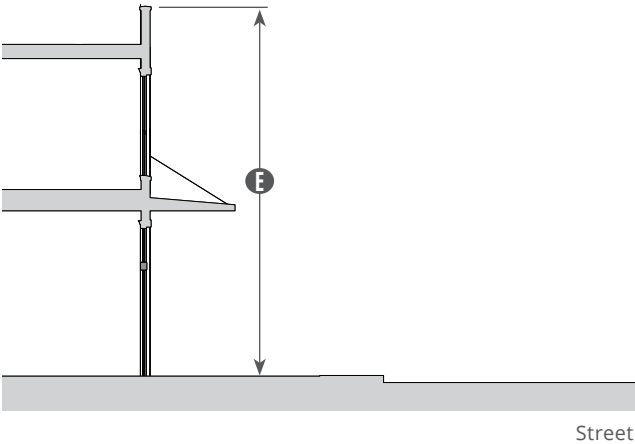
Table 23-4D-4100(C) Building Form**(1) Net Frontage defined by Building Facade**

Location	Net Frontage
Front ²	40% min.
Side St. ²	40% min.

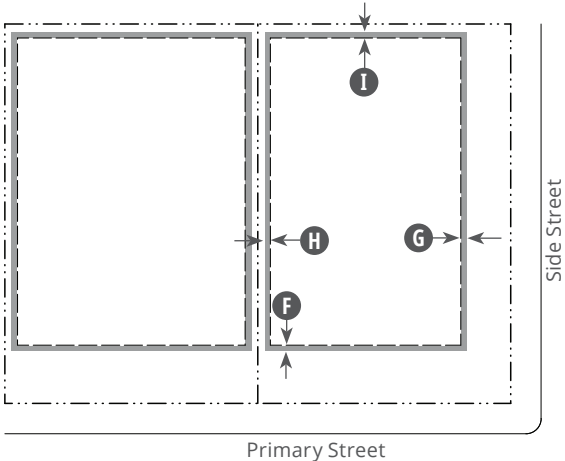
See exemptions in Subsection 23-4D-4050 (B)(1).

²Where there is not enough building frontage to meet the standards, an active private frontage is required in compliance with Table (G).

Building Height Diagram



Encroachments Diagram



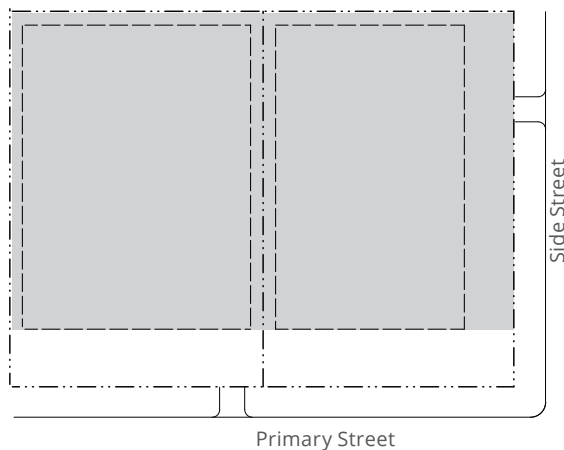
Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-4100(D) Height		
(1) All Buildings		
Overall (max.)	45'	E
(2) Compatibility Height Stepback		
(a) Building height stepbacks are required where a portion of a building is located:		
(i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;		
(ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or		
(ii) adjacent to a property zoned Residential House-Scale.		
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).		
(c) Distance from the lot line of the triggering property:		
≤ 25'	Overall height shall not exceed:	18'
> 25 and ≤ 50'		35'
> 50'		Set by zone standards

Table 23-4D-4100(E) Encroachments				
(1) Encroachment Type	Front (max.)	Side St. (max.)	Side (max.)	Rear (max.)
	F	G	H	I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				
Landscaping may be located in a required setback.				
Encroachments within a right-of-way, public easement, or utility easement require a license agreement or encroachment agreement.				
¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).				
² 3' (max.) above ground.				
(2) Height Encroachment				
See Section 23-4E-7050 (Encroachments Above Maximum Height) for standards.				

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-4100(F) Parking**(1) Parking Requirements**

See Section 23-4D-4040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

See Section 23-4D-4040 (A)

Table 23-4D-4100(G) Frontages**(1) Active Public Frontage**

The portion of a building facade designated for active private frontage may be setback a maximum 20' from the setback line. Maximum 30% of active private frontage may be set back up to 30'.

See Subsection 23-4D-4050 (B)(3) for required amenities.

(2) Pedestrian Access

Pedestrian entrance must face and connect directly to the primary street.

Pedestrian entrances must be provided at least every 75' along the elevation facing the primary street.

See exemptions in Subsection 23-4D-4050 (B)(2).

Table 23-4D-4100(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	70% ¹	23-3D-3
Building Cover	50%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-4100(I) Open Space

(1) Open Space Type	Size (min.)
---------------------	-------------

(a) Personal Open Space

Multi-Family Uses < 10 units	5% gross site area in compliance with Section 23-4E-6240 (Multi-Family)
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(b) Common Open Space

Multi-Family Uses ≥ 10 units	5% gross site area
All Other Non-Residential Uses > 2 acres	5% gross site area

(c) Civic Open Space

All Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)
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Table 23-4D-4100(J) Additional Compatibility
(1) Additional Compatibility.

A site that is located adjacent to a Rural Residential (RR) or Residential House-scale 1 zone (R1) or a development that exceeds 35 feet in height shall:

- (a) install exterior glass on the building that is clear or lightly tinted; and
- (b) use exterior light to illuminate the building above the second floor.

Table 23-4D-4100(K) Special Requirements for Uses
(1) Personal Services

(a) personal services uses may not exceed 5,000 sf of gross floor area.

(2) Restaurants

- (a) may not exceed 4,000 sf;
- (b) may operate only between the hours of 7:00 a.m. and 11:00 p.m.;
- (c) may not have outside seating area that exceeds 500 sf;
- (d) may not have outside seating area that is within 50' of an adjacent Residential House-Scale Zone; and
- (e) may not have outdoor amplified sound.

23-4D-4110 Mixed-Use 2B (MU2B) Zone


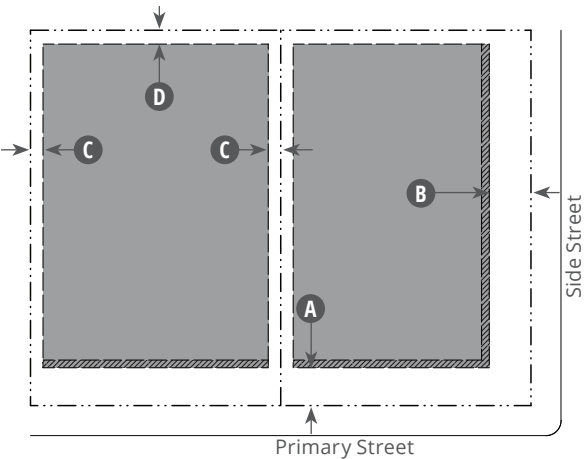
- 
- (A) **Purpose.** Mixed-use 2B (MU2B) zone is intended to provide convenient access to employment, shopping and daily services, and neighborhood amenities for nearby residents.
 - (B) **Overview.** This zone allows residential and medium-intensity office, service, and retail uses. It can be summarized as:
 - (1) basic and additional forms;
 - (2) eligible for affordable housing bonus programs;
 - (3) the compatibility effects of this zone require height setbacks and additional setbacks.
 - (C) **Requirements.** A lot zoned mixed-use 2B shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover);
 - (9) Table (I) (Open Space); and
 - (10) Table (J) (Additional Compatibility).
 - (D) **Subzone Requirements.** In addition to the requirements in Table (A) (Lot Size and Intensity), the following requirements apply:
 - (1) For a lot with the "-A" subzone and does not participate in the affordable housing bonus program.
 - (a) The lot shall have no base entitlement for dwelling units.
 - (2) For a lot with the "-A" subzone and participates in the affordable housing bonus program.
 - (a) The **total bonus is the** combined base standard dwelling units plus the bonus provided by the affordable housing bonus program as listed in Table (A) (Lot Size and Intensity).
 - (b) **The maximum units per acre shall not exceed the total bonus units per acre.**
 - (c) **The set aside requirements shall be calculated as a percent of the total bonus, using Table 23-3E-1040(C): Affordable Unit Set Aside Requirements in For-Sale Properties or Table 23-3E-1040(E): Affordable Unit Set Aside Requirements in For-Rent Properties in "-A" Zones.**

Table 23-4D-4110(A) Lot Size and Intensity						
Allowed Use	Lot				Building	
	Principal Dwelling Units Per Acre (max.)		Width (min.)	Area (min.)	Size (max.)	
	Base Standard ¹	AHBP Bonus ²			Base Standard The less restrictive shall apply between:	AHBP Bonus ²
Single-Family Attached	18	+0	20'	2,000 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	18	+0	40'	4,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Multi-Family	36	+18	50'	5,000 sf	1.0 FAR	+1.0 FAR
Townhouse	24	+0	18'	1,800 sf	0.6 FAR or 2,000 sf	+0 FAR
Work/Live	24	+0	18'	1,800 sf	0.6 FAR or 2,000 sf	+0 FAR
Other Allowed Uses	—	+0	50'	5,000 sf	1.0 FAR	+1.0 FAR

¹ Lots zones with the "-A" subzone shall comply with the requirements of Subsection (D)

² To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram



Key for Diagrams - - - - ROW / Lot Line - - - - Building Setback Line ■ Buildable Area

Table 23-4D-4110(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
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Minimum	15'	15'	5'	5'
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(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 75' wide	15'	15'	15'	30'
Lots > 75' wide	15'	15'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-4110(C) Building Form

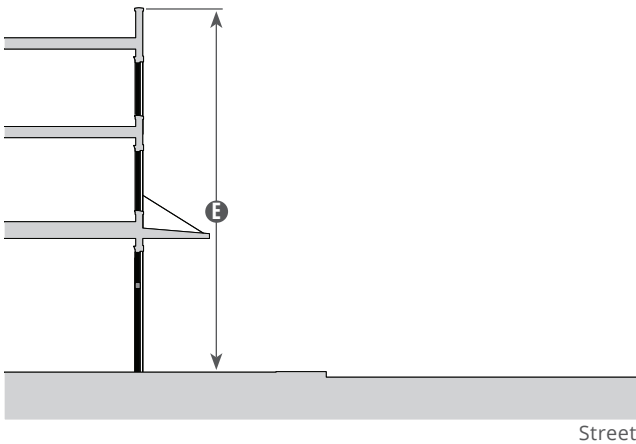
(1) Net Frontage defined by Building Facade

Location	Net Frontage
Front ²	40% min.
Side St. ²	40% min.

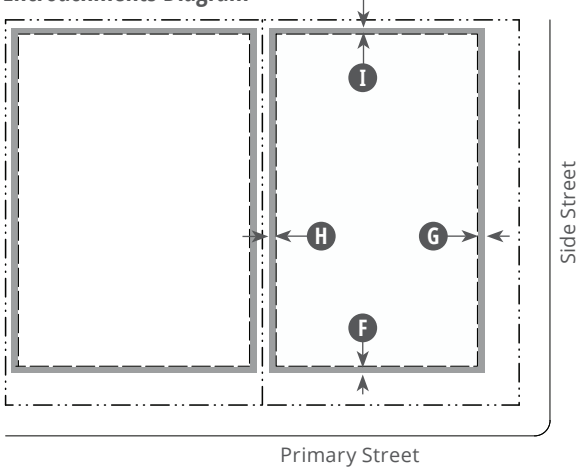
See exemptions in Subsection 23-4D-4050 (B)(1).

² Where there is not enough building frontage to meet the standards, an active private frontage is required in compliance with Subsection (G).

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

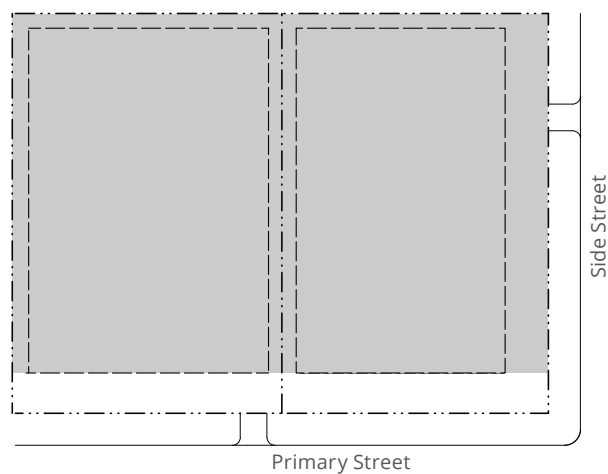
Table 23-4D-4110(D) Height		
(1) All Buildings		
Overall (max.)	60'	E
(2) Compatibility Height Stepback		
(a) Building height setbacks are required where a portion of a building is located:		
(i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;		
(ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or		
(ii) adjacent to a property zoned Residential House-Scale.		
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).		
(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:	
≤ 25'	18'	
25'-50'	35'	
50'-100'	45'	
> 100'	Set by zone standards	

Table 23-4D-4110(E) Encroachments				
(1) Encroachment Type	Front (max.)	Side St. (max.)	Side (max.)	Rear (max.)
	F	G	H	I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	8'	3'	3'
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				
Landscaping may be located in a required setback.				
Encroachments within a right-of-way, public easement, or utility easement require a license agreement or encroachment agreement.				
¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).				
² 3' (max.) above ground.				
(2) Height Encroachment				
See Section 23-4E-7050 (Encroachments Above Maximum Height) for standards.				

Key for Tables

- A = Allowed
- = Not Allowed
- N/R = No Requirement

Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Parking Area

Table 23-4D-4110(F) Parking

(1) Parking Requirements

See Section 23-4D-4040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

See Section 23-4D-4040 (A)

Table 23-4D-4110(G) Frontages

(1) Active Private Frontage

The portion of a building façade designated for active private frontage may be setback a maximum 20' from the setback line. Maximum 30% of active private frontage may be set back up to 30'.

See Subsection 23-4D-4050 (B)(3) for required amenities.

(2) Pedestrian Access

Pedestrian entrance must face and connect directly to the primary street.

Pedestrian entrances must be provided at least every 75' along the elevation facing the primary street.

See exemptions in Subsection 23-4D-4050(B)(2).

Table 23-4D-4110(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	80% ³	23-3D-3
Building Cover	60%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

See Section 23-4E-4080 (Functional Green) for developments with impervious cover greater than 80%.

³Maximum impervious cover may not be attainable due to unique site characteristics (i.e., trees, waterways, steep slopes). A project may reduce impervious cover to comply with this Title.

Table 23-4D-4110(I) Open Space	
(1) Open Space Type	Size (min.)
(a) Personal Open Space	
Multi-Family Uses < 10 units	5% gross site area in compliance with Section 23- 4E-6240 (Multi-Family)
(b) Common Open Space	
Multi-Family Uses ≥ 10 units	5% gross site area
All Other Non- Residential Uses > 2 acres	5% gross site area
(c) Civic Open Space	
All Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

Table 23-4D-4110(J) Additional Compatibility
(1) Additional Compatibility.
A site that is located adjacent to a residential house- scale zone; or a development that exceeds 35 feet in height shall:
(a) install exterior glass on the building that is clear or lightly tinted; and
(b) use exterior light to illuminate the building above the second floor.
(c) not have outside seating area that is within 50' of an adjacent Residential House-Scale Zone; and
(d) not have outdoor amplified sound.

23-4D-4120 Mixed-Use 3A (MU3A) Zone


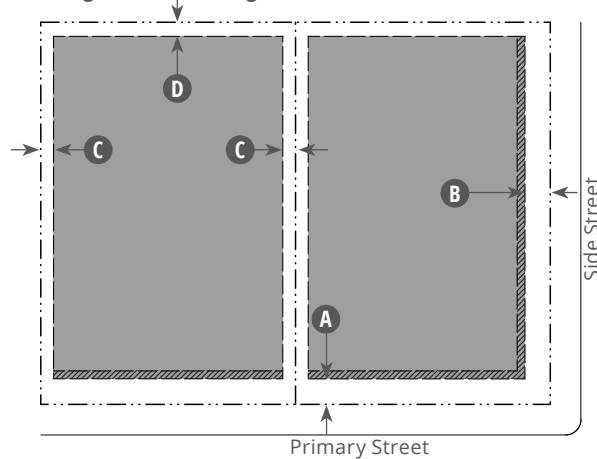
- 
- (A) **Purpose.** Mixed-use 3A (MU3A) zone is intended to provide city-wide access to shopping and daily services, including general commercial, auto, and service uses.
 - (B) **Overview.** This zone allows residential and medium-intensity office, service, and retail uses. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone require height stepbacks and additional setbacks.
 - (C) **Requirements.** A lot zoned mixed-use 3A (MU3A) zone shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).
 - (D) **Subzone Requirements.** In addition to the requirements in Table (A) (Lot Size and Intensity), the following requirements apply:
 - (1) For a lot with the "-A" subzone and does not participate in the affordable housing bonus program.
 - (a) The lot shall have no base entitlement for dwelling units.
 - (2) For a lot with the "-A" subzone and participates in the affordable housing bonus program.
 - (a) The **total bonus is the** combined base standard dwelling units plus the bonus provided by the affordable housing bonus program as listed in Table (A) (Lot Size and Intensity).
 - (b) **The maximum units per acre shall not exceed the total bonus units per acre.**
 - (c) **The set aside requirements shall be calculated as a percent of the total bonus, using Table 23-3E-1040(C): Affordable Unit Set Aside Requirements in For-Sale Properties or Table 23-3E-1040(E): Affordable Unit Set Aside Requirements in For-Rent Properties in "-A" Zones.**

Table 23-4D-4120(A) Lot Size and Intensity						
Allowed Use	Lot				Building	
	Principal Dwelling Units Per Acre (max.)		Width (min.)	Area (min.)	Size (max.)	
	Base Standard ¹	AHBP Bonus ²			Base Standard The less restrictive shall apply between:	AHBP Bonus ²
Single-Family Attached	18	+0	20'	2,000 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	18	+0	40'	4,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Multi-Family	36	+18	50'	5,000 sf	1.0 FAR	+2.0 FAR
Townhouse	24	+0	18'	1,800 sf	0.6 FAR or 2,000 sf	+0 FAR
Work/Live	24	+0	18'	1,800 sf	0.6 FAR or 2,000 sf	+0 FAR
Other Allowed Uses	—	+0	50'	5,000 sf	1.0 FAR	+2.0 FAR

¹ Lots zones with the "-A" subzone shall comply with the requirements of Subsection (D)

² To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram**Key for Diagrams**

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

▨ Facade Zone

⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-4120(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	10'	10'	5'	5'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 75' wide	10'	10'	15'	30'
Lots > 75' wide	10'	10'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

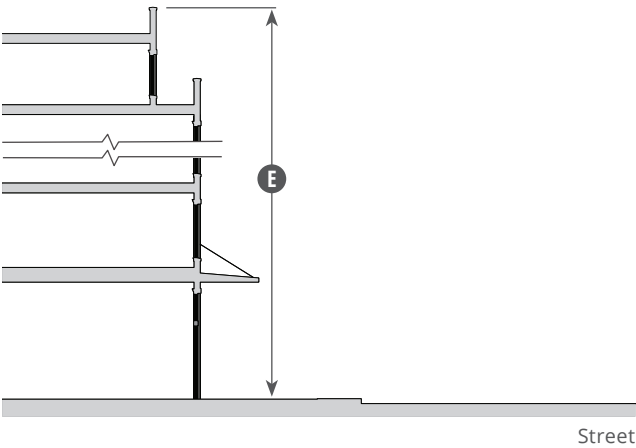
Table 23-4D-4120(C) Building Form**(1) Net Frontage defined by Building Facade**

Location	Net Frontage
Front ²	40% min.
Side St. ²	40% min.

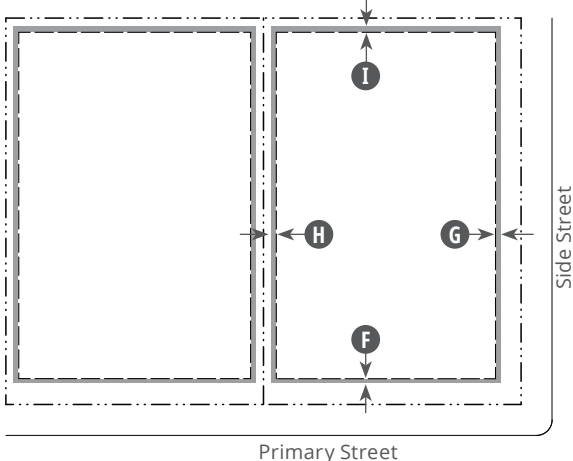
See exemptions in Subsection 23-4D-4050 (B)(1).

² Where there is not enough building frontage to meet the standards, an active private frontage is required in compliance with Subsection (G).

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-4120(D) Height

(1) All Buildings		
Overall (max.)	60'	E
(4) Compatibility Height Stepback		
(a) Building height setbacks are required where a portion of a building is located:		
(i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;		
(ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or		
(ii) adjacent to a property zoned Residential House-Scale.		
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).		
(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:	
≤ 25'	18'	
25'-50'	35'	
50'-100'	45'	
> 100'	Set by zone standards	

Table 23-4D-4120(E) Encroachments

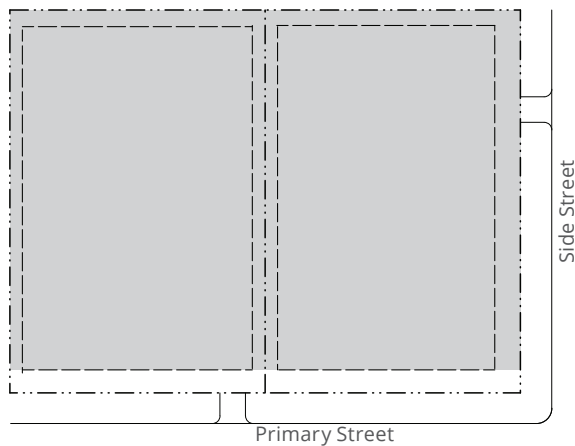
	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
(1) Encroachment Type				
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	5'	3'	3'	3'
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				
Landscaping may be located in a required setback.				
Encroachments within a right-of-way, public easement, or utility easement require a license agreement or encroachment agreement.				
¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).				
² 3' (max.) above ground.				
(2) Height Encroachment				
See Section 23-4E-7050 (Encroachments Above Maximum Height) for standards.				

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-4120(F) Parking**(1) Parking Requirements**

See Section 23-4D-4040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

See Section 23-4D-4040 (A)

Table 23-4D-4120(G) Frontages**(1) Active Private Frontage**

The portion of a building façade designated for active private frontage may be setback a maximum 20' from the setback line. Maximum 30% of active private frontage may be set back up to 30'.

See Subsection 23-4D-4050 (B)(3) for required amenities.

(2) Pedestrian Access

Pedestrian entrance must face and connect directly to the primary street.

Pedestrian entrances must be provided at least every 75' along the elevation facing the primary street.

See exemptions in Subsection 23-4D-4050 (B)(2).

Table 23-4D-4120(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	90% ¹	23-3D-3
Building Cover	75%	
See Section 23-4E-4080 (Functional Green) for developments with impervious cover greater than 80%.		
See Division 23-3D-3 (Impervious Cover) for additional standards.		
¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.		

Table 23-4D-4120(I) Open Space	
(1) Open Space Type	Size (min.)
(a) Personal Open Space	
Multi-Family Uses < 10 units	5% gross site area in compliance with Section 23-4E-6240 (Multi-Family)
(b) Common Open Space	
Multi-Family Uses ≥ 10 units	5% gross site area
All Other Non-Residential Uses > 2 acres	5% gross site area
(c) Civic Open Space	
All Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

23-4D-4130 Mixed-Use 3B (MU3B) Zone


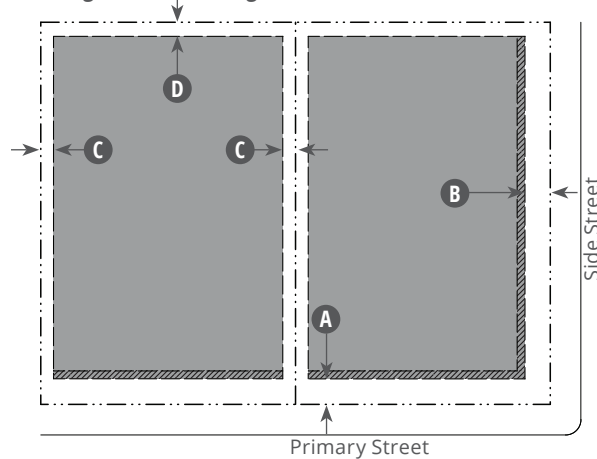
- 
- (A) **Purpose.** Mixed-use 3B (MU3B) zone is intended to provide city-wide access to shopping and daily services, including general commercial, auto, and service uses.
- (B) **Overview.** This zone allows residential and medium-intensity office, service, and retail uses. It can be summarized as:
- (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone require height stepbacks and additional setbacks.
- (C) **Requirements.** A lot zoned mixed-use 3B (MU3B) zone shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).
- (D) **Subzone Requirements.** In addition to the requirements in Table (A) (Lot Size and Intensity), the following requirements apply:
- (1) For a lot with the "-A" subzone and does not participate in the affordable housing bonus program.
 - (a) The lot shall have no base entitlement for dwelling units.
 - (2) For a lot with the "-A" subzone and participates in the affordable housing bonus program.
 - (a) The **total bonus is the** combined base standard dwelling units plus the bonus provided by the affordable housing bonus program as listed in Table (A) (Lot Size and Intensity).
 - (b) **The maximum units per acre shall not exceed the total bonus units per acre.**
 - (c) **The set aside requirements shall be calculated as a percent of the total bonus, using Table 23-3E-1040(C): Affordable Unit Set Aside Requirements in For-Sale Properties or Table 23-3E-1040(E): Affordable Unit Set Aside Requirements in For-Rent Properties in "-A" Zones.**

Table 23-4D-4130(A) Lot Size and Intensity						
Allowed Use	Lot				Building	
	Principal Dwelling Units Per Acre (max.)		Width (min.)	Area (min.)	Size (max.)	
	Base Standard	AHBP Bonus ¹			Base Standard The less restrictive shall apply between:	AHBP Bonus ¹
Single-Family Attached	18	+0	20'	2,000 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	18	+0	40'	4,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Multi-Family	36	+18	50'	5,000 sf	1.0 FAR	+2.0 FAR
Townhouse	24	+0	18'	1,800 sf	0.6 FAR or 2,000 sf	+0 FAR
Work/Live	24	+0	18'	1,800 sf	0.6 FAR or 2,000 sf	+0 FAR
Other Allowed Uses	—	+0	50'	5,000 sf	1.0 FAR	+2.0 FAR

¹ Lots zones with the "-A" subzone shall comply with the requirements of Subsection (D)

² To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram**Key for Diagrams**

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

▨ Facade Zone

⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-4130(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	10'	10'	5'	5'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 75' wide	10'	10'	15' ¹	30' ¹
Lots > 75' wide	10'	10'	20' ¹	30' ¹

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

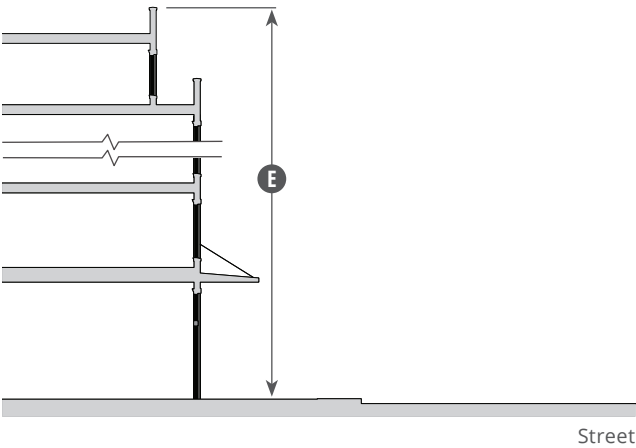
Table 23-4D-4130(C) Building Form**(1) Net Frontage defined by Building Facade**

Location	Net Frontage
Front ²	40% min.
Side St. ²	40% min.

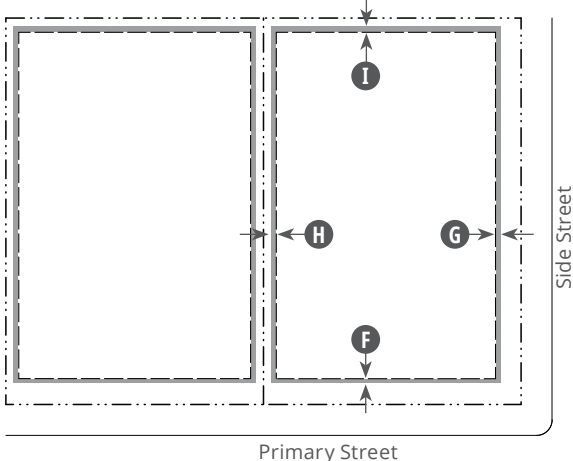
See exemptions in Subsection 23-4D-4050 (B)(1).

² Where there is not enough building frontage to meet the standards, an active private frontage is required in compliance with Subsection (G).

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-4130(D) Height		
(1) All Buildings		
Overall (max.)	60'	E
(2) Compatibility Height Stepback		
(a) Building height setbacks are required where a portion of a building is located:		
(i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;		
(ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or		
(ii) adjacent to a property zoned Residential House-Scale.		
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).		
(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:	
≤ 25'	18'	
25'-50'	35'	
50'-100'	45'	
> 100'	Set by zone standards	

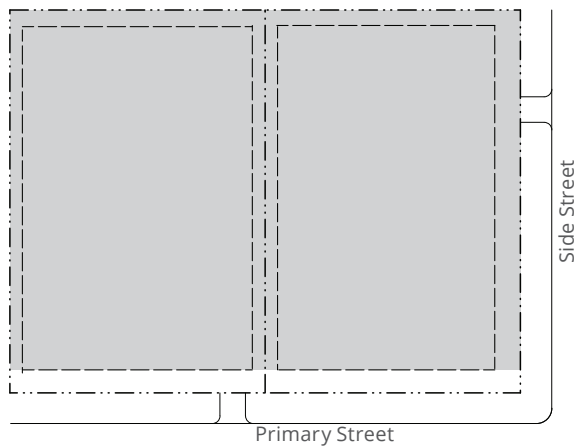
Table 23-4D-4130(E) Encroachments				
(1) Encroachment Type	Front (max.)	Side St. (max.)	Side (max.)	Rear (max.)
	F	G	H	I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	5'	3'	3'	3'
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				
Landscaping may be located in a required setback.				
Encroachments within a right-of-way, public easement, or utility easement require a license agreement or encroachment agreement.				
¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).				
² 3' (max.) above ground.				
(2) Height Encroachment				
See Section 23-4E-7050 (Encroachments Above Maximum Height) for standards.				

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-4130(F) Parking**(1) Parking Requirements**

See Section 23-4D-4040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

See Section 23-4D-4040 (A)

Table 23-4D-4130(G) Frontages**(1) Active Private Frontage**

The portion of a building façade designated for active private frontage may be setback a maximum 20' from the setback line. Maximum 30% of active private frontage may be set back up to 30'.

See Subsection 23-4D-4050 (B)(3) for required amenities.

(2) Pedestrian Access

Pedestrian entrance must face and connect directly to the primary street.

Pedestrian entrances must be provided at least every 75' along the elevation facing the primary street.

See exemptions in Subsection 23-4D-4050 (B)(2).

Table 23-4D-4130(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	90% ¹	23-3D-3
Building Cover	75%	
See Section 23-4E-4080 (Functional Green) for developments with impervious cover greater than 80%.		
See Division 23-3D-3 (Impervious Cover) for additional standards.		
¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.		

Table 23-4D-4130(I) Open Space	
(1) Open Space Type	Size (min.)
(a) Personal Open Space	
Multi-Family Uses < 10 units	5% gross site area in compliance with Section 23-4E-6240 (Multi-Family)
(b) Common Open Space	
Multi-Family Uses ≥ 10 units	5% gross site area
All Other Non-Residential Uses > 2 acres	5% gross site area
(c) Civic Open Space	
All Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

23-4D-4140 Mixed-Use 4A (MU4A) Zone


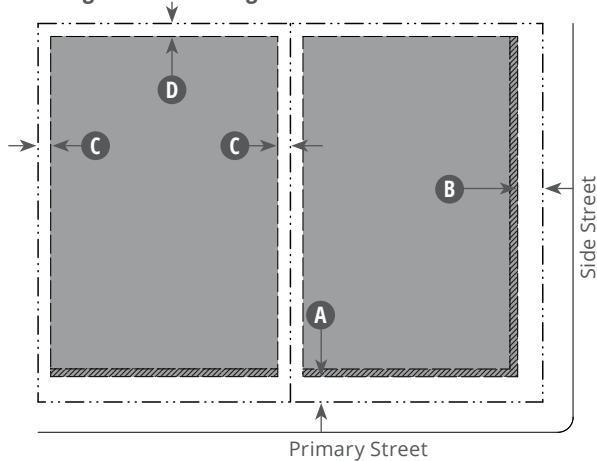
- 
- (A) **Purpose.** Mixed-use 4A (MU4A) zone is intended to allow residential, medium-to-high-intensity multi-unit residential, office, service, retail, and entertainment uses.
 - (B) **Overview.** This zone allows residential and medium-to-high intensity multi-unit residential, office, service, retail, and entertainment uses. It can be summarized as:
 - (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone require height setbacks and additional setbacks.
 - (C) **Requirements.** A lot zoned mixed-use 4A shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).
 - (D) **Subzone Requirements.** In addition to the requirements in Table (A) (Lot Size and Intensity), the following requirements apply:
 - (1) For a lot with the "-A" subzone and does not participate in the affordable housing bonus program.
 - (a) The lot shall have no base entitlement for dwelling units.
 - (2) For a lot with the "-A" subzone and participates in the affordable housing bonus program.
 - (a) The **total bonus is the** combined base standard dwelling units plus the bonus provided by the affordable housing bonus program as listed in Table (A) (Lot Size and Intensity).
 - (b) **The maximum units per acre shall not exceed the total bonus units per acre.**
 - (c) **The set aside requirements shall be calculated as a percent of the total bonus, using Table 23-3E-1040(C): Affordable Unit Set Aside Requirements in For-Sale Properties or Table 23-3E-1040(E): Affordable Unit Set Aside Requirements in For-Rent Properties in "-A" Zones.**

Table 23-4D-4140(A) Lot Size and Intensity						
Allowed Use	Lot				Building	
	Principal Dwelling Units Per Acre (max.)		Width (min.)	Area (min.)	Size (max.)	
	Base Standard ¹	AHBP Bonus ²			Base Standard The less restrictive shall apply between:	AHBP Bonus ²
Single-Family Attached	18	+0	20'	2,000 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	18	+0	40'	4,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Multi-Family	36	+36	50'	5,000 sf	2.0 FAR	+3.0 FAR
Townhouse	24	+0	18'	1,800 sf	0.6 FAR or 2,000 sf	+0 FAR
Work/Live	24	+0	18'	1,800 sf	0.6 FAR or 2,000 sf	+0 FAR
Other Allowed Uses	—	+0	50'	5,000 sf	2.0 FAR	+3.0 FAR

¹ Lots zones with the "-A" subzone shall comply with the requirements of Subsection (D)

² To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram**Key for Diagrams**

--- ROW / Lot Line

■ Buildable Area

▨ Facade Zone

--- Building Setback Line

Table 23-4D-4140(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	10'	10'	5'	5'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback

	Front A	Side St. B	Side C	Rear D
Lots ≤ 75' wide	10'	10'	15' ¹	30' ¹
Lots > 75' wide	10'	10'	20' ¹	30' ¹

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

¹ Landscape buffer required where additional setback are required when adjacent to Residential House-Scale zones. See Section 23-4E-4090 (Intermittent Visual Obstruction Buffer) for specific landscape requirements.

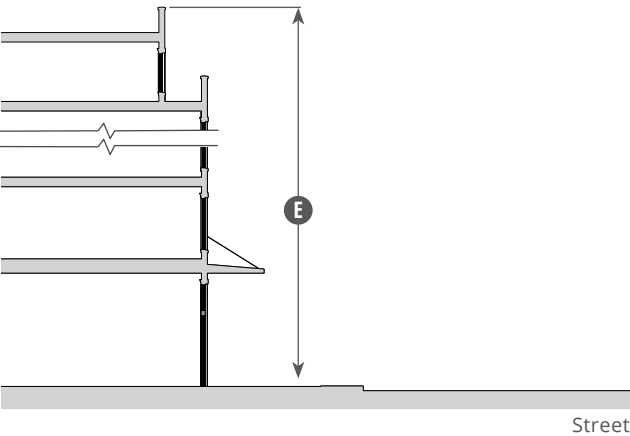
Table 23-4D-4140(C) Building Form**(1) Net Frontage defined by Building Facade**

Location	Net Frontage
Front ²	40% min.
Side St. ²	40% min.

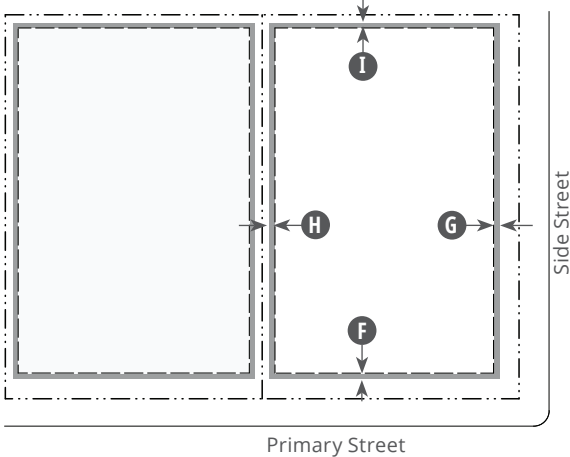
See exemptions in Subsection 23-4D-4050 (B)(1).

² Where there is not enough building frontage to meet the standards, an active private frontage is required in compliance with Subsection (G).

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Encroachment

⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-4140(D) Height

(1) All Buildings	Base	
	Standard	AHBP Bonus ¹
Overall (max.)	60'	+15' E

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

(2) Compatibility Height Stepback

- (a) Building height setbacks are required where a portion of a building is located:
- (i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;
 - (ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or
 - (ii) adjacent to a property zoned Residential House-Scale.

(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).

(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:
< 25'	18'
25-50'	35'
50'-100'	45'
> 100'	Set by zone standards

Table 23-4D-4140(E) Encroachments

(1) Encroachment Type	Front (max.)	Side St. (max.)	Side (max.)	Rear (max.)
	F	G	H	I
Architectural Features ²	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ³	5'	3'	3'	3'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

² Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

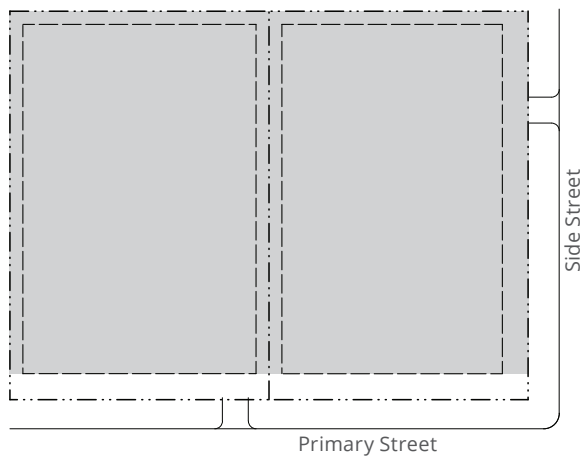
³ 3' (max.) above ground.

(2) Height Encroachment

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Key for Tables

- A = Allowed
- = Not Allowed
- N/R = No Requirement

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-4130(F) Parking**(1) Parking Requirements**

See Section 23-4D-4040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

See Section 23-4D-4040 (A)

Table 23-4D-4140(G) Frontages**(1) Active Private Frontage**

The portion of a building façade designated for active private frontage may be setback a maximum 20' from the setback line. Maximum 30% of active private frontage may be set back up to 30'.

See Subsection 23-4D-4050 (B)(3) for required amenities.

(2) Pedestrian Access

Pedestrian entrance must face and connect directly to the primary street.

Pedestrian entrances must be provided at least every 75' along the elevation facing the primary street.

See exemptions in Subsection 23-4D-4050 (B)(2).

Table 23-4D-4140(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	95% ¹	23-3D-3
Building Cover	90%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		
See Section 23-4E-4080 (Functional Green) for developments with impervious cover greater than 80%.		
¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.		

Table 23-4D-4140(I) Open Space	
(1) Open Space Type	Size (min.)
(a) Personal Open Space	
None required	
(b) Common Open Space	
Multi-Family Uses ≥ 10 units	5% gross site area
All Other Non-Residential Uses > 2 acres	5% gross site area
(c) Civic Open Space	
All Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

23-4D-4150 Mixed-Use 4B (MU4B) Zone


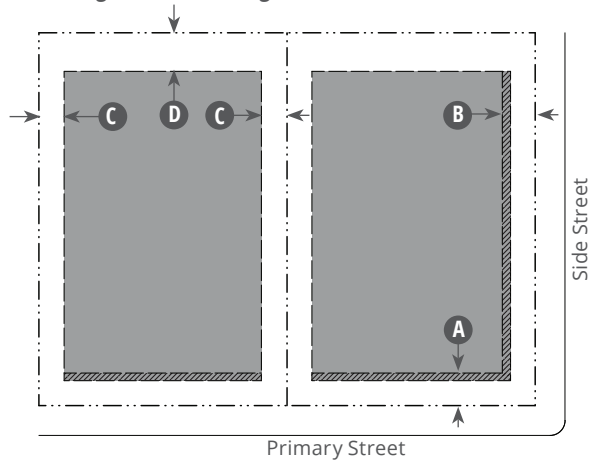
- 
- (A) **Purpose.** Mixed-use 4B (MU4B) zone is intended to allow service, storage, and auto-related businesses with operating characteristics that make them inappropriate in zones with retail or office use.
 - (B) **Overview.** This zone allows residential and medium-intensity service and commercial industrial uses.
 - (C) **Requirements.** A lot zoned mixed-use 4B shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover);
 - (9) Table (I) (Open Space); and
 - (10) Table (J) (Additional Compatibility).
 - (D) **Subzone Requirements.** In addition to the requirements in Table (A) (Lot Size and Intensity), the following requirements apply:
 - (1) For a lot with the "-A" subzone and does not participate in the affordable housing bonus program.
 - (a) The lot shall have no base entitlement for dwelling units.
 - (2) For a lot with the "-A" subzone and participates in the affordable housing bonus program.
 - (a) The **total bonus is the** combined base standard dwelling units plus the bonus provided by the affordable housing bonus program as listed in Table (A) (Lot Size and Intensity).
 - (b) **The maximum units per acre shall not exceed the total bonus units per acre.**
 - (c) **The set aside requirements shall be calculated as a percent of the total bonus, using Table 23-3E-1040(C): Affordable Unit Set Aside Requirements in For-Sale Properties or Table 23-3E-1040(E): Affordable Unit Set Aside Requirements in For-Rent Properties in "-A" Zones.**

Table 23-4D-4150(A) Lot Size and Intensity						
Allowed Use	Lot				Building	
	Principal Dwelling Units Per Acre (max.)		Width (min.)	Area (min.)	Size (max.)	
	Base Standard ¹	AHBP Bonus ²			Base Standard The less restrictive shall apply between:	AHBP Bonus ²
Single-Family Attached	18	+0	20'	2,000 sf	0.4 FAR or 1,150 sf	+0 FAR
Duplex	18	+0	40'	4,000 sf	0.4 FAR or 2,300 sf	+0 FAR
Multi-Family	36	+36	50'	5,000 sf	2.0 FAR	+3.0 FAR
Townhouse	24	+0	18'	1,800 sf	0.6 FAR or 2,000 sf	+0 FAR
Work/Live	24	+0	18'	1,800 sf	0.6 FAR or 2,000 sf	+0 FAR
Other Allowed Uses	—	+0	50'	5,000 sf	2.0 FAR	+3.0 FAR

¹ Lots zones with the "-A" subzone shall comply with the requirements of Subsection (D)

² To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram**Key for Diagrams**

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

▨ Facade Zone

Table 23-4D-4150(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum:	10'	10'	5'	5'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback

	Front A	Side St. B	Side C	Rear D
Lots ≤ 75' wide	10'	10'	15' ¹	30' ¹
Lots > 75' wide	10'	10'	20' ¹	30' ¹

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

¹ Landscape buffer required where additional setback are required when adjacent to Residential House-Scale zones. See Section 23-4E-4090 (Intermittent Visual Obstruction Buffer) for specific landscape requirements.

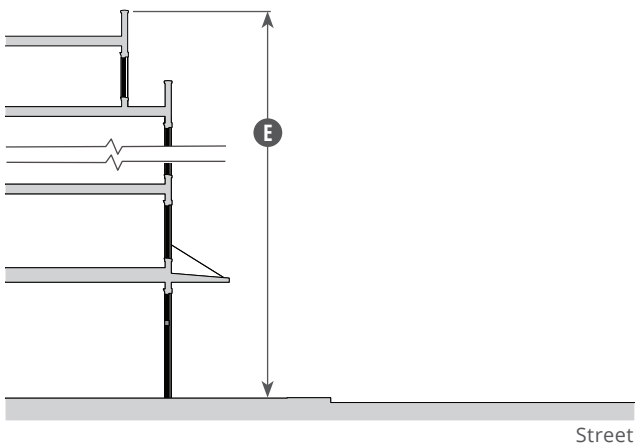
Table 23-4D-4150(C) Building Form**(1) Net Frontage defined by Building Facade**

Location	Net Frontage
Front ²	40% min.
Side St. ²	40% min.

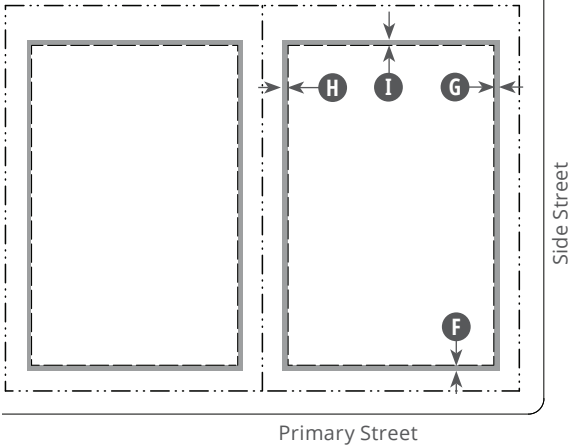
See exemptions in Subsection 23-4D-4050 (B)(1).

²Where there is not enough building frontage to meet the standards, an active private frontage is required in compliance with Subsection (G).

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-4150(D) Height

(1) All Buildings	Base Standard	AHBP Bonus ³	
Overall (max.)	60'	+15'	E

³To receive an affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

(2) Compatibility Height Stepback

- (a) Building height setbacks are required where a portion of a building is located:
- (i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;
 - (ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or
 - (ii) adjacent to a property zoned Residential House-Scale.
- (b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).
- (c) Distance from the lot line of the triggering property:
- | | |
|----------|--------------------------------------|
| ≤ 25' | Overall height shall not exceed: 18' |
| 25'-50' | 35' |
| 50'-100' | 45' |
| > 100' | Set by zone standards |

Table 23-4D-4150(E) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	5'	3'	3'	3'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Landscaping may be located in a required setback.

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

(2) Height Encroachment

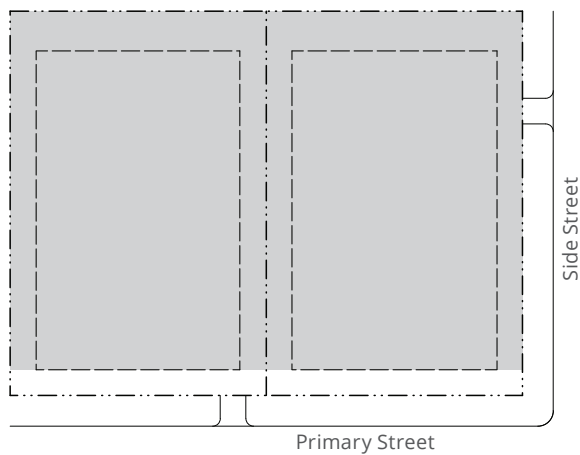
See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-4150(F) Parking**(1) Parking Requirements**

See Section 23-4D-4040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

See Section 23-4D-4040 (A)

Table 23-4D-4150(G) Frontages**(1) Active Private Frontage**

The portion of a building façade designated for active private frontage may be setback a maximum 20' from the setback line. Maximum 30% of active private frontage may be set back up to 30'.

See Subsection 23-4D-4050 (B)(3) for required amenities.

(2) Pedestrian Access

Pedestrian entrance must face and connect directly to the primary street.

Pedestrian entrances must be provided at least every 75' along the elevation facing the primary street.

See exemptions in Subsection 23-4D-4050 (B)(2).

Table 23-4D-4150(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	95% ¹	23-3D-3
Building Cover	95%	
See Section 23-4E-4080 (Functional Green) for developments with impervious cover greater than 80%.		
See Division 23-3D-3 (Impervious Cover) for additional standards.		

¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-4150(I) Open Space	
(1) Open Space Type	Size (min.)
(a) Personal Open Space	
Multi-Family Uses < 10 units	5% gross site area in compliance with Section 23-4E-6240 (Multi-Family)
(b) Common Open Space	
Multi-Family Uses ≥ 10 units	5% gross site area
All Other Non-Residential Uses > 2 acres	5% gross site area
(c) Civic Open Space	
All Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

Table 23-4D-4150(J) Additional Compatibility
(1) Additional Compatibility
A site that is located adjacent to a Rural Residential (RR) or Residential House-scale 1 zone (R1) or a development that exceeds 35 feet in height shall:
(a) install exterior glass on the building that is clear or lightly tinted; and
(b) use exterior light to illuminate the building above the second floor.

23-4D-4160 Mixed-Use 5A (MU5A) Zone

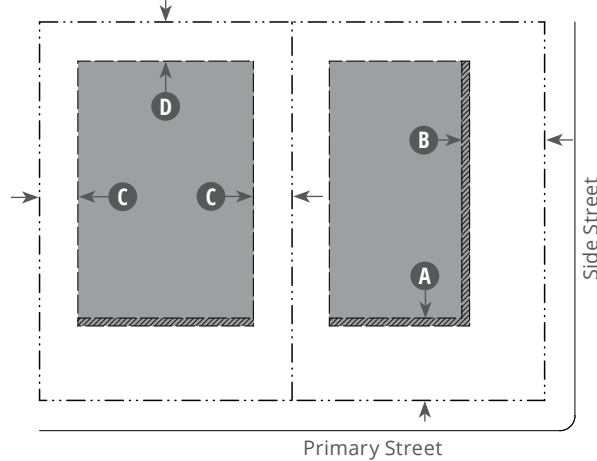
- (A) **Purpose.** Mixed-use 5A zone is intended to reduce the impact of large scale and auto-oriented uses, and to encourage adequate access within and between individuals lots.
- (B) **Overview.** This zone allows residential, medium-to-high intensity multi-unit residential, office, service, and retail uses on large lots that have operating and design characteristics that benefit from visibility or direct access from major intersections or highways, such as large format retail stores that generate a high volume of local and regional traffic. It can be summarized as:
- (1) eligible for affordable housing bonus programs; and
 - (2) the compatibility effects of this zone require height setbacks and additional setbacks.
- (C) **Requirements.** A lot zoned MU5A shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover);
 - (9) Table (I) (Open Space).



MU5A

Table 23-4D-4160(A) Lot Size and Intensity						
Allowed Use	Lot				Building	
	Principal Dwelling Units Per Acre (max.)				Size (max.)	
	Base Standard	AHBP Bonus ¹	Width (min.)	Area (min.)	Base Standard The less restrictive shall apply between:	
					AHBP Bonus	
Multi-Family	54	+18	50'	5,000 sf	3.0 FAR	+2.0 FAR
Townhouse	24	+0	18'	1,800 sf	0.6 FAR or 2,000 sf	+0 FAR
Other Allowed Uses	—	+0	100'	10,000 sf	3.0 FAR	+2.0 FAR

¹ To receive an affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

Building Placement Diagram**Key for Diagrams**

--- ROW / Lot Line

■ Buildable Area

▨ Facade Zone

--- Building Setback Line

Table 23-4D-4160(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	30'	30'	15'	15'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 75' wide	30'	30'	15' ¹	30' ¹
Lots > 75' wide	30'	30'	20' ¹	30' ¹

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

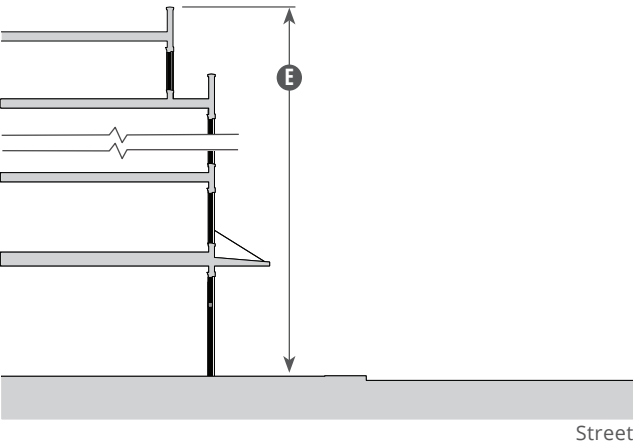
Table 23-4D-4160(C) Building Form**(1) Net Frontage defined by Building Facade**

Location	Net Frontage
Front ²	40% min.
Side St. ²	40% min.

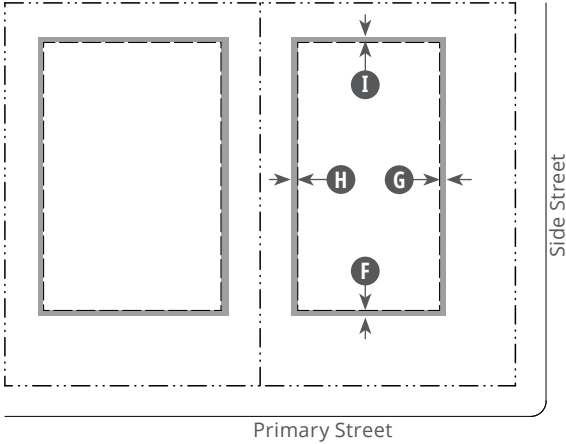
See exemptions in Subsection 23-2D-4050 (B)(1).

²Where there is not enough building frontage to meet the standards, an active private frontage is required in compliance with Subsection (G).

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Key for Diagrams

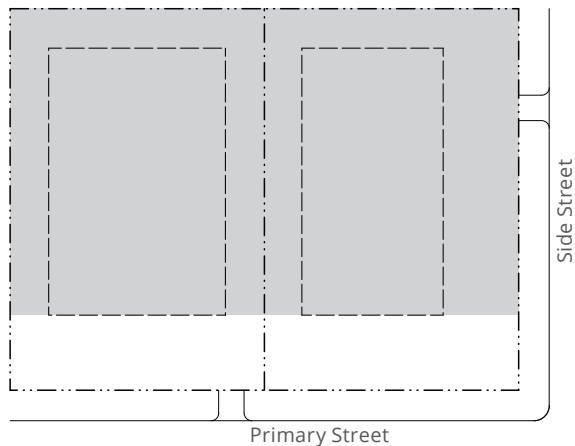
- Encroachment
- ⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-4160(D) Height

(1) All Buildings		
Overall (max.)	80'	E
(2) Compatibility Height Stepback		
(a) Building height stepbacks are required where a portion of a building is located:		
(i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;		
(ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or		
(ii) adjacent to a property zoned Residential House-Scale.		
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).		
(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:	
≤ 25'	18'	
25'-50'	35'	
50'-100'	45'	
> 100'	Set by zone standards	

Table 23-4D-4160(E) Encroachments

(1) Encroachment Type	Front (max.)	Side St. (max.)	Side (max.)	Rear (max.)
	F	G	H	I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	3'	3'	3'
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				
Landscaping may be located in a required setback.				
Encroachments within a right-of-way, public easement, or utility easement require a license agreement or encroachment agreement.				
¹ Does not apply to a feature required for a passive energy design. See ramp exceptions Subsection 23-4E-7050(B)(7).				
² 3' max. above ground.				
(2) Height Encroachment				
See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.				

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-4160(F) Parking**(1) Parking Requirements**

See Section 23-4D-4040 (Parking Requirements) for standards.

(2) Parking Setbacks (Distance from ROW / Lot Line)

See Section 23-4D-4040 (A)

Table 23-4D-4160(G) Frontages**(1) Active Private Frontage**

The portion of a building façade designated for active private frontage may be setback a maximum 20' from the setback line. Maximum 30% of active private frontage may be set back up to 30'.

See Subsection 23-4D-4050 (B)(3) for required amenities.

(2) Pedestrian Access

Pedestrian entrance must face and connect directly to the primary street.

Pedestrian entrances must be provided at least every 75' along the elevation facing the primary street.

See exemptions in Subsection 23-4D-4050 (B)(2).

Table 23-4D-4160(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	75% ¹	23-3D-3
Building Cover	70%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		

¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-4160(I) Open Space	
(1) Open Space Type	Size (min.)
(a) Personal Open Space	
Multi-Family Uses	5% gross site area in compliance with Section 23-4E-6240 (Multi-Family)
(b) Common Open Space	
Multi-Family Uses ≥ 10 units	5% gross site area
All Other Non-Residential Uses > 2 acres	5% gross site area
(c) Civic Open Space	
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

[PC Motion #107](#)

Table 23-4D-5080(H)

Table 23-4D-5120(H)

Map Imagine Austin Corridors as follows:

1) All commercial lots will be zoned as MS with the following rules: lots under 140 sq ft. deep zoned as MS2B, and lots between 140-220 sq ft. deep zoned as MS3B.

Revise the Impervious Cover in MS2B to 90%, and MS3B to 95%

Division 23-4D-5: Main Street Zones

Contents

23-4D-5010	Purpose	1
23-4D-5020	Applicability	1
23-4D-5030	Allowed Uses and Permit Requirements	2
23-4D-5040	Parking Requirements	7
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23-4D-5070	Main Street 1B (MS1B) Zone	17
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23-4D-5010 Purpose

This division establishes the land use and building form requirements for property zoned main street. The requirements implement the Comprehensive Plan and are intended to ensure that proposed development is compatible with existing development on neighboring properties. Additionally, the requirements are intended to produce an environment of desirable character, consistent with the Comprehensive Plan and any applicable area plan.

23-4D-5020 Applicability

- (A) The requirements in this division apply to a lot zoned within main street zone.
- (B) The uses allowed in main street zones are subject to the requirements of this division and any applicable regulations within Article 23-4E (Supplemental to Zones).
- (C) In addition to the requirements included within this division and Article 23-4E (Supplemental to Zones), a lot or use may also be subject to the following provisions of the Title:
 - (1) Article 23-3C (Urban Forest Protection and Replenishment);
 - (2) Article 23-3D (Water Quality);
 - (3) Article 23-3E (Affordable Housing);
 - (4) Division 23-4E-2 (Outdoor Lighting);
 - (5) Division 23-4E-7 (Additional General Standards);
 - (6) Section 23-4E-8060 (Building Design);
 - (7) Chapter 23-8 (Signs); and
 - (8) Article 23-10E (Drainage).

- (D) The provisions identified in Subsection (C) may not be a complete list of requirements that apply to a lot or use. Failure to include a specific provision in Subsection (C) or anywhere else in this division does not exempt the lot or use from complying with the provision.

23-4D-5030 Allowed Uses and Permit Requirements

(A) Allowed Uses.

- (1) Table (A) (Allowed Uses in Main Street Zones) establishes the land uses that are allowed in each main street zone.
 - (2) Each land use listed is defined in Article 23-3M (Definitions and Measurements).
 - (3) In zones MS2A, MS2B, and MS3A, on the ground floor of a building along a primary street frontage, an allowed non-residential pedestrian oriented use is required. Lobbies to upper floor uses or lobbies to residential uses are allowed.
- (B) If a table identifies a permit requirement for the land use, then a property may not be used in that manner until the property owner or property operator obtains a permit.
- (C) If a land use is subject to additional requirements, the table identifies the section Division 23-4E-6 (Specific to Uses) that applies.
- (D) If a land use is marked "N/A" or is not included in the table, it is not allowed in the zone.

Table 23-4D-5030(A) Allowed Uses in Main Street Zones MS1A–MS3B								
Use Type	Specific to Use Requirements	MS1A	MS1B	MS2A	MS2B	MS2C	MS3A	MS3B
(1) Residential								
Accessory Dwelling Unit - Residential	23-4E-6030	P	P	P	P	P	P	P
Accessory Dwelling Unit - Commercial	23-4E-6040	P	P	P	P	P	P	P
Bed and Breakfast	23-4E-6090	P	P	P	P	P	P	P
Cooperative Housing		—	P	P	P	P	P	P
Duplex	23-4E-6170	—	P	P	P	P	P	P
Home Occupations	23-4E-6200	P	P	P	P	P	P	P
Live/Work	23-4E-6210	P	P	P	P	P	P	P
Multi-Family	23-4E-6250	P	P	P	P	P	P	P
Senior/Retirement Housing								
≤12	23-4E-6330	P	P	P	P	P	P	P
>12	23-4E-6330	P	P	P	P	P	P	P

Key for Table 23-4D-5030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-5030(A) Allowed Uses in Main Street Zones MS1A–MS3B (continued)

Use Type	Specific to Use Requirements	MS1A	MS1B	MS2A	MS2B	MS2C	MS3A	MS3B
(1) Residential (continued)								
Short-term Rental								
Types 1	23-4E-6340	P	P	P	P	P	P	P
Types 2	23-4E-6340	—	—	—	—	—	—	—
Types 3	23-4E-6340	P	P	P	P	P	P	P
Townhouse		P	P	P	P	P	P	P
Work/Live	23-4E-6380	P	P	P	P	P	P	P
(2) Residential Support								
No Residential Support uses allowed								
(3) Services								
Alternative Financial Services	23-4E-6080	—	—	—	—	—	CUP	CUP
Animal Service/Boarding								
Level 1		P	P	P	P	P	P	P
Level 2		—	—	—	—	—	—	—
Level 3		—	—	—	—	—	—	—
Business and Financial/ Professional Services		P	P	P	P	P	P	P
Commercial Services and Repair								
No Outside Storage		CUP	CUP	MUP	MUP	MUP	P	P
w/ Incidental Outside Storage		CUP	CUP	CUP	CUP	CUP	P	P
Day Care								
Small <7		P	P	P	P	P	P	P
Large 7 ≥ and ≤20		P	P	P	P	P	P	P
Commercial		P	P	P	P	P	P	P
Drive Through, Retail, or Service Facility	23-4E-6160	—	—	—	CUP	CUP	MUP	MUP
Hotel/Motel		P	P	P	P	P	P	P
Medical Services								
<2,500 sf		P	P	P	P	P	P	P
>2,500 sf		CUP	CUP	P	P	P	P	P

Key for Table 23-4D-5030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-5030(A) Allowed Uses in Main Street Zones MS1A–MS3B (continued)								
Use Type	Specific to Use Requirements	MS1A	MS1B	MS2A	MS2B	MS2C	MS3A	MS3B
(3) Services (continued)								
Personal Services								
Non-restricted		P	P	P	P	P	P	P
Restricted		—	—	—	P	P	P	P
(4) Office								
Office, General (non-medical)		P	P	P	P	P	P	P
(5) Civic and Public Assembly								
Government		MUP	MUP	MUP	MUP	MUP	MUP	MUP
Library, Museum, or Public Art Gallery		P	P	P	P	P	P	P
Meeting Facility (public or private)		P	P	P	P	P	P	P
Public Safety Facility		P	P	P	P	P	P	P
Religious Assembly Facility		P	P	P	P	P	P	P
School								
Business, or Trade	23-4E-6320	P	P	P	P	P	P	P
College or University	23-4E-6320	P	P	P	P	P	P	P
Private Primary	23-4E-6320	P	P	P	P	P	P	P
Private Secondary	23-4E-6320	P	P	P	P	P	P	P
Public Primary	23-4E-6320	P	P	P	P	P	P	P
Public Secondary	23-4E-6320	P	P	P	P	P	P	P
(6) Restaurant and Bars								
Bar/Nightclub								
Level 1		—	MUP	—	MUP	MUP	P	P
Level 2		—	—	—	CUP	—	MUP	MUP
Micro-Brewery/Micro-Distillery/Winery		—	MUP	—	P	P	P	P
Mobile Food Sales	23-4E-6230	P	P	P	P	P	P	P
Restaurant								
w/o Alcohol Sales		P	P	P	P	P	P	P
w/ Alcohol Sales	23-4E-6310	—	MUP	—	MUP	MUP	P	P
Drive Through	23-4E-6160	—	—	—	CUP	CUP	MUP	MUP
Late Night Operation	23-4E-6310	CUP	CUP	CUP	CUP	CUP	CUP	CUP

Key for Table 23-4D-5030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-5030(A) Allowed Uses in Main Street Zones MS1A–MS3B (continued)

Use Type	Specific to Use Requirements	MS1A	MS1B	MS2A	MS2B	MS2C	MS3A	MS3B
(7) Retail								
Alcohol Sales	23-4E-6070	—	CUP	—	CUP	CUP	CUP	CUP
Food Sales		P	P	P	P	P	P	P
General Retail								
≤ 5,000 sq ft		P	P	P	P	P	P	P
>5,000 and ≤10,000 sf		—	P	—	P	P	P	P
w/ Onsite Production		—	P	—	P	P	P	P
w/ Outside Storage	23-4E-6190	—	—	—	—	—	CUP	CUP
Mobile Retail		P	P	P	P	P	P	P
(8) Entertainment and Recreation								
Performance Venue/Theater	23-4E-6260							
Indoor	23-4E-6260							
≤2,500 sf	23-4E-6260	MUP	MUP	P	P	P	P	P
2,500-10,000 sf	23-4E-6260	CUP	CUP	MUP	MUP	MUP	P	P
> 10,000 sf	23-4E-6260	—	—	—	CUP	CUP	CUP	CUP
Outdoor	23-4E-6260							
≤ 2,500 sf	23-4E-6260	—	—	MUP	MUP	MUP	P	P
2,500-10,000 sf	23-4E-6260	—	—	—	CUP	CUP	CUP	CUP
Recreation								
Indoor ≤ 5,000 sf	23-4E-6290	P	P	P	P	P	P	P
Indoor > 5,000 sf	23-4E-6290	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Outdoor, Formal	23-4E-6290	MUP	MUP	MUP	MUP	MUP	MUP	MUP
Outdoor, Informal	23-4E-6290	P	P	P	P	P	—	—
Outdoor, Natural	23-4E-6290	P	P	P	P	P	P	P
Studio: art, dance, martial arts, music	23-4E-6370	P	P	P	P	P	P	P
(9) Industrial								
No Industrial uses allowed								
(10) Agriculture								
Community Agriculture	23-4E-6120	MUP	MUP	MUP	MUP	MUP	MUP	MUP
(11) Automobile Related								
Gas Station	23-4E-6180	—	—	—	CUP	CUP	CUP	CUP

Key for Table 23-4D-5030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-5030(A) Allowed Uses in Main Street Zones MS1A–MS3B (continued)								
Use Type	Specific to Use Requirements	MS1A	MS1B	MS2A	MS2B	MS2C	MS3A	MS3B
Parking Facility		—	—	—	—	—	CUP	CUP
(12) Innovation and Technology								
No Innovation and Technology uses allowed								
(13) Other								
Accessory Uses	23-4E-6050	P	P	P	P	P	P	P
Communications	23-4E-6110	P	P	P	P	P	P	P
Utilities								
Local		P	P	P	P	P	P	P
Major		—	—	—	—	—	—	—
Telecommunications	23-4E-6370	P	P	P	P	P	P	P
Temporary Uses	23-4B-1050	TUP	TUP	TUP	TUP	TUP	TUP	TUP
Transit Terminal		—	—	—	—	—	CUP	CUP
Special Uses	23-4E-6350	CUP	CUP	CUP	CUP	CUP	—	—

Key for Table 23-4D-5030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

23-4D-5040 Parking Requirements

- (A) **Parking Required.** Required off street parking in the Main Street Zones is provided in Table 23-4D-5040(A) (Parking Standards for Main Street Zones).
- (B) **Parking Reductions.** See Section 23-4E-3060 (Off-street Motor Vehicle Parking Adjustments) for standards for parking adjustment from Table A (Parking Standards for Main Street Zones).
- (C) **Maximum Number of Parking Spaces.** Developments over 10,000 square feet in floor area or containing 25 or more residential units shall not exceed the double the minimum number of parking spaces required. Maximum is calculated before any applicable parking reductions. Maximum does not apply to zones or land uses that require no off-street parking.

Table 23-4D-5040(A) Parking requirements for MS1A–MS3B

Use Type	Off-Street Parking Requirement
(1) Residential	
Accessory Dwelling Unit - Residential	none required
Accessory Dwelling Unit - Commercial	none required
Bed and Breakfast	1 plus 0.8 per bedroom
Cooperative Housing	1 plus 1 per every 4 bedrooms
Home Occupations	None required
Senior/ Retirement Housing	0.8 per unit
Other allowed residential uses	1 per unit
(2) Residential Support	
No Residential Support uses allowed	
(3) Services	
Drive Through, Retail, or Service Facility	None Required
Hotel/Motel	1 per every 2 bedrooms, plus 1 per 500 sf of meeting space
Medical Services	1 per 350 sf after first 2,500 sf
Other allowed service uses	1 per 500 sf after first 2,500 sf
(4) Office	
Office, General (non-medical)	1 per 500 sf after first 2,500 sf
(5) Civic and Public Assembly	
Library, Museum, or Public Art Gallery	1 per 500 sf after first 2,500 sf
Meeting Facility (public or private)	1 per 500 sf after first 2,500 sf

Table 23-4D-5040(A) Parking requirements for MS1A–MS3B (continued)	
Use Type	Off-Street Parking Requirement
School	
Business, or Trade	1 space per staff member, plus 1 space for every 4 students enrolled
College or University	1 space per staff member, plus 1 space for every 4 students enrolled
Private Primary	1 space per staff member
Private Secondary	1 space per staff member, plus 1 space for every 4 students enrolled in grades 11 and 12
Public Primary	1 space per staff member
Public Secondary	1 space per staff member, plus 1 space for every 4 students enrolled in grades 11 and 12
Other allowed civic and public assembly uses	As determined by the Director
(6) Restaurant and Bars	
Bar/Nightclub	
First 2,500 sf of area	None required
For each square foot greater than 2,500 sf up to 10,000 sf	1 per 125 sf
For each square foot greater than 10,000 sf	1 per 100 sf
Micro-Brewery/Micro-Distillery/Winery	1 per 150 sf after first 2,500 sf tasting area, 1 per 1,000 sf production area
Mobile Food Sales	None required
Restaurant	
First 2,500 sf of area	None required
For each square foot greater than 2,500 sf	1 per 125 sf
For restaurants that provide no customer service or dining area	1 per 325 sf after first 2,500 sf
Drive Through	None required
(7) Retail	
Food Sales	1 per 350 sf after first 2,500 sf
Mobile Retail	None required
All allowed retail uses	1 per 500 sf after first 2,500 sf
(8) Entertainment and Recreation	
Studio: art, dance, martial arts, music	1 per 500 sf after first 2,500 sf
Other allowed entertainment and recreation uses	As determined by the Director
(9) Industrial	
No industrial uses allowed	
(10) Agriculture	
All allowed Agriculture uses	As determined by the Director

Table 23-4D-5040(A) Parking requirements for MS1A–MS3B (continued)

Use Type	Off-Street Parking Requirement
(11) Automobile Related	
Gas Station	1 per each 2 fueling bays plus 2 queue spaces per each fueling bay
Parking Facility	As determined by the Planning Director
(12) Innovation and Technology	
No innovation and technology uses allowed	
(13) Other	
All allowed other uses	As determined by Planning Director

23-4D-5050 General to Main Street Zones

- (A) **Applicability.** The standards of this Section apply to all proposed development in compliance with this Division, unless otherwise provided in this Section. When in conflict, the standards of this Section supersede the standards of the base zone.
- (B) **Building Frontage and Placement**
- (1) **Building Placement**
- (a) Exemptions
- (i) Drive-throughs. If a drive-through business has only one access point to a public thoroughfare, a circulation lane maximum 20 feet wide may be provided between the building and the property line. However, there must be a public sidewalk that crosses the circulation lane providing direct pedestrian access to the building entrance visible from the property line.
 - (ii) Restaurant or Gas Stations. Building placement standards do not apply to redevelopment of an existing pad site restaurant or gas station use that remains as a restaurant or gas station and the development occurs within the existing site configuration.
 - (iii) Narrow Interior Lots. Narrow interior lots less than 65 feet wide with only a single point of access to a public roadway are exempt from building placement standards.
- (2) **Building Entrance**
- (a) Exemptions. An entrance is not required if the following conditions are met:
- (i) Minimum 80 percent of the net building frontage consists of building facade built to the minimum setback line;
 - (ii) The building has a continuous shaded sidewalk linking the sidewalk to the building entrance; and
 - (iii) The entrance is less than 100 feet from the property line.
- (3) **Alternate Active Private Frontage.** As an option, active private frontage may be used to substitute in whole, or in part, for the placement standards in required in the zone. Active private frontage must conform to the standards of this Subsection. See Figure 23-4D-5050 (1) (Building Placement and Alternative) for reference.
- (a) Active private frontage areas must include one or more of the following amenities:
- (i) Accessory outdoor dining, provided that the dining area is separated from the public right-of-way only with planters, shrubs, or fencing with a maximum height of 42 inches;

- (ii) Balconies, pedestrian sidewalks, porches, accessible ramps, and stoops; provided that no such feature must extend into the public right-of-way without a license agreement;
 - (iii) Terraces (see Section 23-4E-1100 [Terrace] for standards);
 - (iv) Landscape and water features;
 - (v) Plazas; and
 - (vi) Incidental display and sales.
- (b) Any amenities provided in active public use areas must not obstruct the open pedestrian connection between the building's primary entrance and the sidewalk.

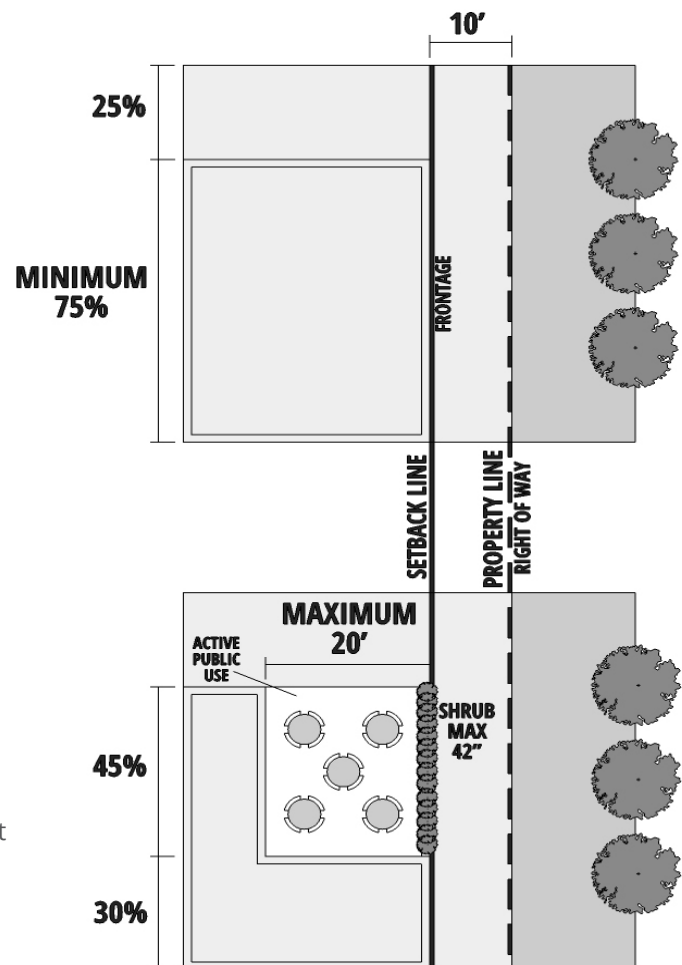


Figure 23-4D-5050 (1) Building Placement and Alternative

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23-4D-5060 Main Street 1A (MS1A) Zone

- (A) **Purpose.** Main street 1A (MS1A) zone is intended to provide housing and convenient access to employment, services, and amenities for nearby residents in a low intensity main street environment located at neighborhood nodes served by transit.
- (B) **Overview.** This zone is a neighborhood mixed-use zone and allows multi-unit residential, office, service, and limited retail uses in attached block-scale buildings. It can be summarized as:
 - (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks triggered by residential house-scale but does not require height stepbacks.
- (C) **Requirements.** A lot zoned main street 1A shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



MS1A

Table 23-4D-5060(A) Lot Size and Intensity

Allowed Use	Lot		
	Principal Dwelling Units Per Acre (max.)		
	Base Standard	Width (min.)	Area (min.)
Live/Work	24	18'	1,800 sf
Multi-family	N/R	18'	1,800 sf
Townhouse	24	18'	1,800 sf
Work/Live	24	18'	1,800 sf
Other Allowed Uses	—	N/R	1,800 sf

Figure 23-4D-5060(1) Building Placement Diagram

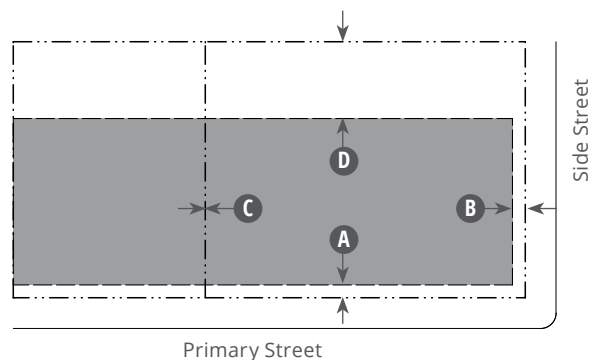
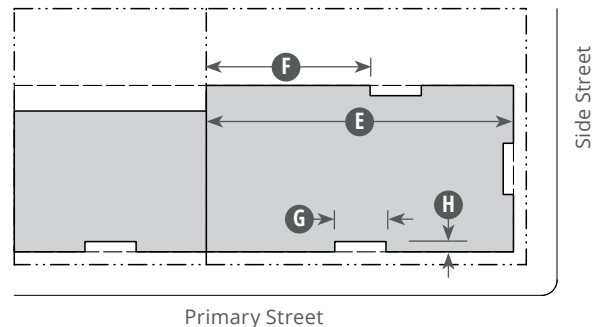


Figure 23-4D-5060(2) Building Form Diagram

**Key for Diagrams**

--- ROW / Lot Line
 ■ Buildable Area

--- Building Setback Line

■ Building Footprint

Table 23-4D-5060(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	5'	5'	0'	5'
Maximum	10'	10'	N/R	N/R

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Front A	Side St. B	Side C	Rear D
For lots ≤ 75' wide	10'	10'	15'	30'
For lots > 75' wide	10'	10'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-5060(C) Building Form**(1) Overall Building Envelope**

Width (max.)	125'	E
--------------	------	---

(2) Building Articulation

Articulation is required for three facades of a building.

(3) Other Facades, All Stories

Facade Length without Articulation (max.)	60'	F
Articulation Length (min.)	24'	G
Articulation Depth (min.)	4'	H

(4) Net Frontage defined by Building Facade

Location	Net Frontage
Front	75% min.
Side St.	75% min.

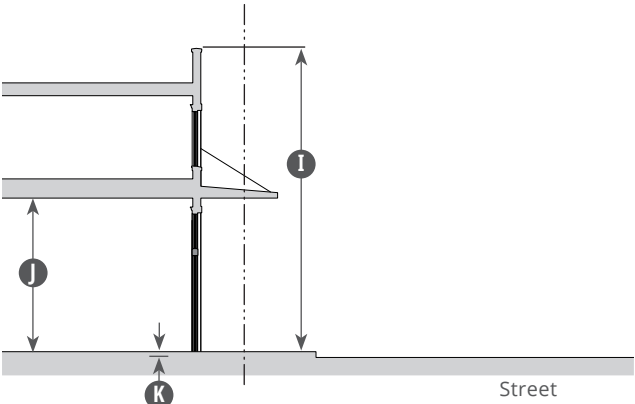
Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Figure 23-4D-5060(3) Building Height Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

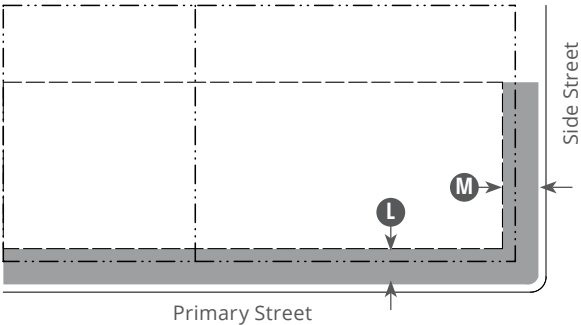
Table 23-4D-5060(D) Height		
(1) Primary and Accessory Building		
Overall (max.)	35'	I
(2) Accessory Structure		
Overall (max.)	12'	
(3) Primary Building, Ground Floor		
Floor-to-Ceiling Height ¹	14' min.	J
Finish Floor Height Above Curb for ground floor residential use within 10' of a street right-of- way ^{1, 2, 3}	18" min.	K

¹ Buildings existing at the time of adoption of this Land Development Code and additions to those buildings are exempt.

² Primary buildings are exempt on lots where the existing grading slopes down and away from the street.

³ Does not apply to lobbies used to access residential units or amenity areas accessible to residential units.

Figure 23-4D-5060(4) Encroachments Diagram

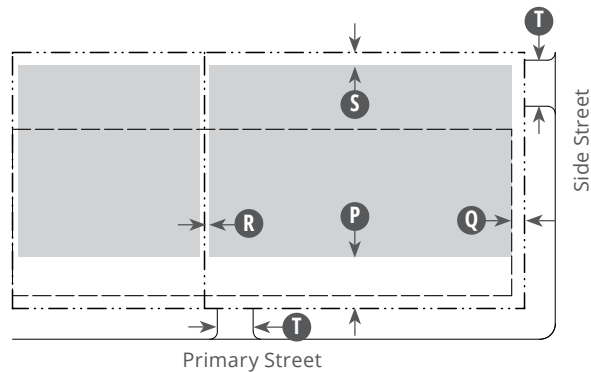


Key for Diagrams

- Encroachment

Table 23-4D-5060(E) Encroachments				
(1) Encroachment Type	Front	Side St.	Side	Rear
	(max.) L	(max.) M	(max.) N	(max.) O
Private Frontage				
Gallery ⁴	14'	14'	—	—
Architectural Features	3'	3'	—	—
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				
Encroachments within a right-of-way, public easement, or utility easement require a license agreement or encroachment agreement.				
⁴ Galleries may encroach into the street right-of-way, subject to the approval of an encroachment agreement in compliance with Chapter 14-11 (Use of Right-of-Way).				
(2) Height Encroachments				
See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.				

Figure 23-4D-5060(5) Parking Diagram

**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-5060(F) Parking**(1) Parking Requirements**

See Section 23-4D-5040 (Parking Requirements) for additional standards.

(2) Parking Setback	Front	Side St.	Side	Rear
	P	Q	R	S
At-Grade and Above-Grade	20'	5'	2'	5'
Below-Grade	5'	5'	0'	30'
(3) Parking Driveway ≤ 40 spaces		> 40 spaces		
Width	14' max.	18' max.		T

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Parking is not allowed above the ground floor level.

Table 23-4D-5060(G) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Terrace	A	A	23-4E-1090
Lightwell ¹	A	A	23-4E-1100
Shopfront	A	A	23-4E-1110
Forecourt	A	A	23-4E-1080
Gallery	A	A	23-4E-1120

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

²Allowed only when necessary to accommodate grade change.

(2) Pedestrian Access

Pedestrian entrances must be provided at least every 75' along ground floor street facade and side street facade.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-5060(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	80% ¹	23-3D-3
Building Cover	70%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-5060(I) Open Space			
(1) Open Space Type	Width (min.)	Depth (min.)	Percentage (min.)
Common	15'	15'	5% gross site area

Common open space requirement may be met by ground floor, upper floor, and/or roof common open space.

Common open space requirements must not be met by open space provided in required front or side-street setbacks, except when provided as an open space as set forth in Division 23-4C-2 (Civic and Open Spaces).



23-4D-5070 Main Street 1B (MS1B) Zone

- (A) **Purpose.** Main street 1B (MS1B) zone is intended to provide housing and convenient access to services and amenities for nearby residents in a low-intensity main street environment with active frontages located at neighborhood nodes, or along corridors served by transit.
- (B) **Overview.** This zone allows multi-unit residential, office, service, and a broad array of retail uses in attached block-scale buildings. It can be summarized as:
 - (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks triggered by residential house-scale but does not require height stepbacks.
- (C) **Requirements.** A lot zoned main street 1B shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



MS1B

Table 23-4D-5070(A) Lot Size and Intensity			
Allowed Use	Lot		
	Dwelling Units Per Acre (max.)		Area (min.)
	Base Standard	Width (min.)	
Duplex	18	40'	5,000 sf
Live/Work	24	18'	1,800 sf
Multi-Family	N/R	18'	1,800 sf
Townhouse	24	18'	1,800 sf
Work/Live	24	18'	1,800 sf
Other Allowed Uses	—	N/R	1,800 sf

Figure 23-4D-5070(1) Building Placement Diagram

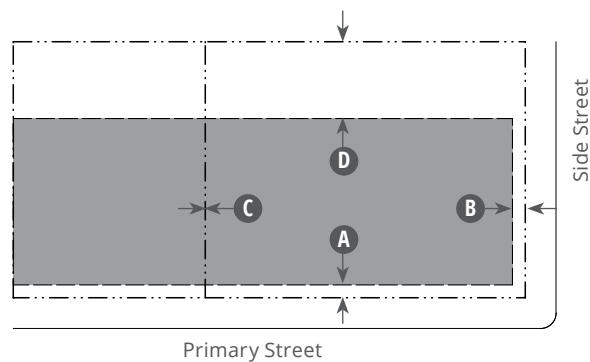
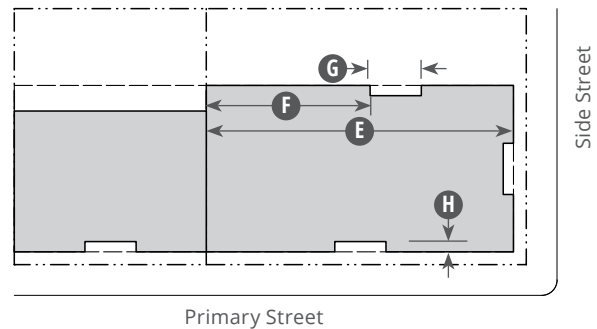


Figure 23-4D-5070(2) Building Form Diagram

**Key for Diagrams**

--- ROW / Lot Line
 ■ Buildable Area

--- Building Setback Line
 ■ Building Footprint

Table 23-4D-5070(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	5'	5'	0'	5'
Maximum	10'	10'	N/R	N/R

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Front A	Side St. B	Side C	Rear D
For lots ≤ 75' wide	10'	10'	15'	30'
For lots > 75' wide	10'	10'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-5070(C) Building Form**(1) Overall Building Envelope**

Width (max.)	125'	E
--------------	------	----------

(2) Building Articulation on Additions and New Construction

Articulation is required for three facades of a building.

(3) Other Facades, All Stories

Facade Length without Articulation (max.)	60'	F
Articulation Length (min.)	24'	G
Articulation Depth (min.)	4'	H

(4) Net Frontage defined by Building Facade

Location	Net Frontage
Front	75% min.
Side St.	75% min.

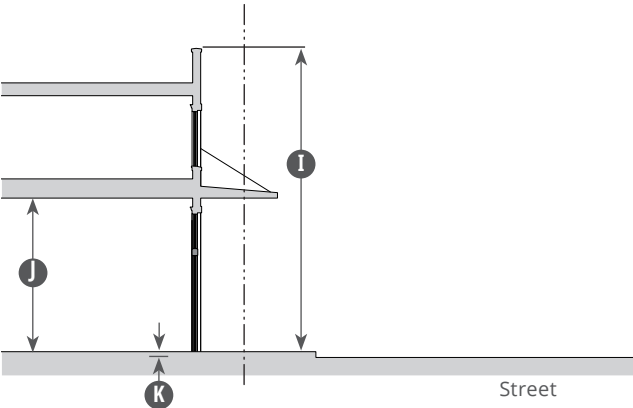
Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Figure 23-4D-5070(3) Building Height Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

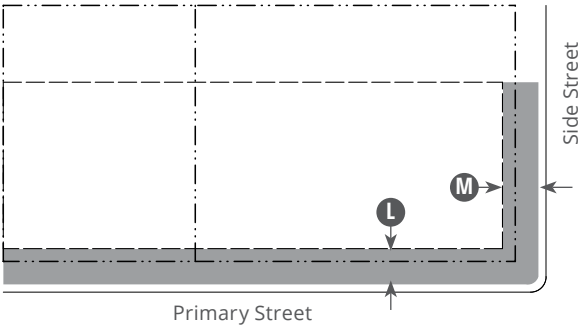
Table 23-4D-5070(D) Height		
(1) Primary and Accessory Building		
Overall (max.)	35'	I
(2) Accessory Structure		
Overall (max.)	12'	
(3) Primary Building, Ground Floor		
Floor-to-Ceiling Height ¹	14' min.	J
Finish Floor Height Above Curb	18" min.	K
for ground floor residential use within 10' of a street right-of-way ^{1, 2, 3}		

¹ Buildings existing at the time of adoption of this Land Development Code and additions to those buildings are exempt.

² Primary buildings are exempt on lots where the existing grading slopes down and away from the street.

³ Does not apply to lobbies used to access residential units or amenity areas accessible to residential units.

Figure 23-4D-5070(4) Encroachments Diagram

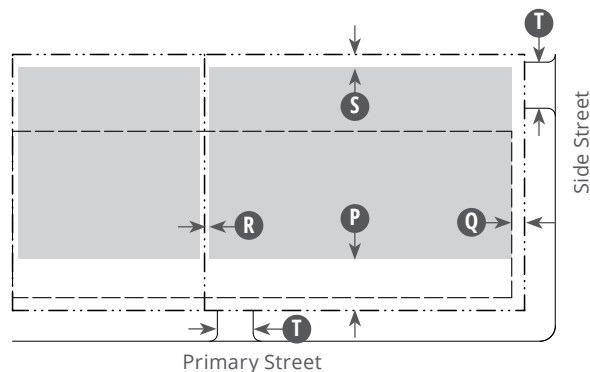


Key for Diagrams

- Encroachment

Table 23-4D-5070(E) Encroachments				
(1) Encroachment Type	Front	Side St.	Side	Rear
	(max.)	(max.)	(max.)	(max.)
	L	M	N	O
Private Frontage				
Gallery ⁴	14'	14'	—	—
Architectural Features	3'	3'	—	—
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				
Encroachments within a right-of-way, public easement, or utility easement require a license agreement or encroachment agreement.				
⁴ Galleries may encroach into the street right-of-way, subject to the approval of an encroachment agreement in compliance with Chapter 14-11 (Use of Right-of-Way).				
(2) Height Encroachments				
See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.				

Figure 23-4D-5070(5) Parking Diagram

**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-5070(F) Parking**(1) Parking Requirements**

See Section 23-4D-5040 (Parking Requirements) for standards.

(2) Parking Setback	Front P	Side St. Q	Side R	Rear S
At-Grade and Above-Grade	20'	5'	2'	5'
Below-Grade	5'	5'	0'	30'
(3) Parking Driveway	≤ 40 spaces		> 40 spaces	
Width	14' max.		18' max. T	
Driveways may be shared between adjacent parcels.				
When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.				
Parking is not allowed above the ground floor level.				

Table 23-4D-5070(G) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Terrace	A	A	23-4E-1090
Lightwell ¹	A	A	23-4E-1100
Shopfront	A	A	23-4E-1110
Forecourt	A	A	23-4E-1080
Gallery	A	A	23-4E-1120

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

¹ Allowed only when necessary to accommodate grade change.

(2) Pedestrian Access

Pedestrian entrances must be provided at least every 75' along ground floor street facade and side street facade.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-5070(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	80% ¹	23-3D-3
Building Cover	70%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-5070(I) Open Space			
(1) Open Space Type	Width (min.)	Depth (min.)	Percentage (min.)
Common	15'	15'	5% gross site area

Common open space requirement may be met by ground floor, upper floor, and/or roof common open space.

Common open space requirements must not be met by open space provided in required front or side-street setbacks, except when provided as an open space as set forth in Division 23-4C-2 (Civic and Open Spaces).

23-4D-5080 Main Street 2A (MS2A) Zone

- (A) **Purpose.** Main street 2A (MS2A) zone is intended to provide housing and convenient access to employment, services, and amenities for nearby residents in a medium-intensity main street environment with active frontages located near transit along a neighborhood edge, along corridors, or in neighborhood nodes served by transit.
- (B) **Overview.** This zone allows multi-unit residential, office, service, and limited retail uses in attached block-scale buildings. It can be summarized as:
- (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks triggered or height stepbacks by residential house-scale.
- (C) **Requirements.** A lot zoned main street 2A shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



MS2A

Table 23-4D-5080(A) Lot Size and Intensity			
Allowed Use	Lot		
	Dwelling Units Per Acre (max.)		Area (min.)
	Base Standard	Width (min.)	
Duplex	18	40'	5,000 sf
Live/Work	24	18'	1,800 sf
Multi-Family	N/R	18'	1,800 sf
Townhouse ¹	24	18'	1,800 sf
Work/Live	24	18'	1,800 sf
Other Allowed Uses	—	N/R	1,800 sf

¹ Shall be built in a run with a minimum of 3 attached buildings. Entire run shall not exceed 75' in length.

Figure 23-4D-5080(1) Building Placement Diagram

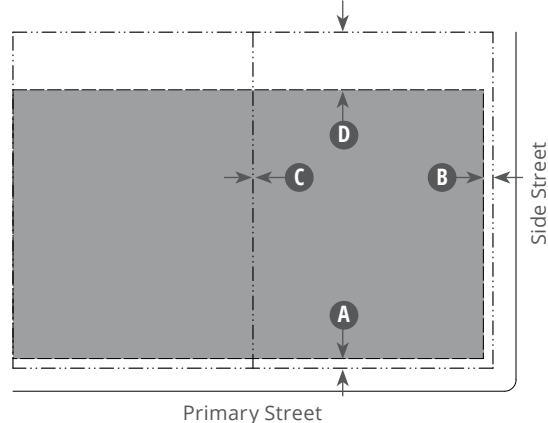
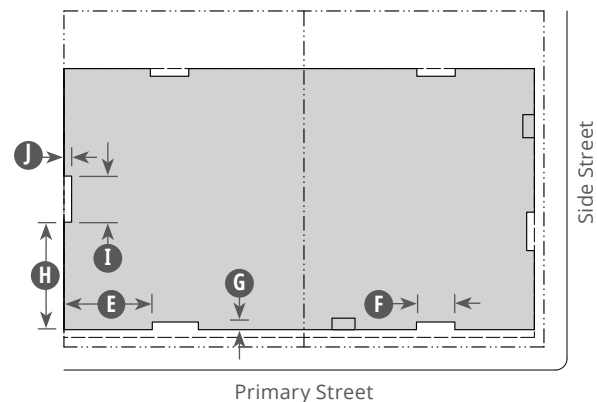


Figure 23-4D-5080(2) Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
 ■ Buildable Area

--- Building Setback Line ■ Building Footprint

Table 23-4D-5080(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	5'	5'	0'	5'
Maximum	10'	10'	N/R	N/R

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
For lots ≤ 75' wide	10'	10'	15'	30'
For lots > 75' wide	10'	10'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-5080(C) Building Form

(1) Building Articulation on Additions and New Construction

Articulation is required for three facades of a building.

(2) Primary Street Facade(s), All Stories

Facade Length without Articulation (max.)	200' E
Articulation Length (min.)	24' F
Articulation Depth (min.)	4' G

(3) Other Facades, All Stories

Facade Length without Articulation (max.)	60' H
Articulation Length (min.)	24' I
Articulation Depth (min.)	4' J

(4) Net Frontage defined by Building Facade

Location	Net Frontage
Front	75% min.
Side St.	75% min.

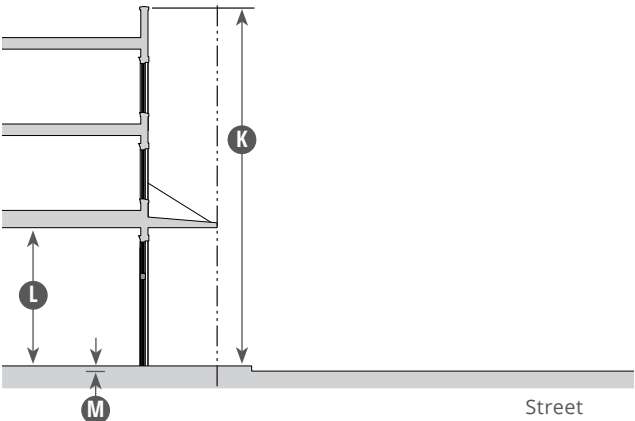
Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Figure 23-4D-5080(3) Building Height Diagram



Key for Diagram

---ROW / Lot Line

Table 23-4D-5080(D) Height		
(1) Primary Building		
Overall (max.)	45'	K
(2) Accessory Building		
To Top Plate (max.)	22'	
Overall (max.)	28'	
(3) Accessory Structure		
Overall (max.)	12'	
(4) Compatibility Height Stepback		
(a) Building height setbacks are required where a portion of a building is located:		
(i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;		
(ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or		
(ii) adjacent to a property zoned Residential House-Scale.		
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).		
(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:	
≤ 25'	18'	
25' - 50'	35'	
> 50'	Set by zone standards	

Table 23-4D-5080(D) Height (continued)		
(5) Primary Building, Ground Floor		
Floor-to-Ceiling Height ¹	14' min.	L
Finish Floor Height Above Curb for ground floor residential use within 10' of a street right-of-way ^{1, 2, 3}		
	18" min.	M
¹ Buildings existing at the time of adoption of this Land Development Code and additions to those buildings are exempt.		
² Primary buildings are exempt on lots where the existing grading slopes down and away from the street.		
³ Does not apply to lobbies used to access residential units or amenity areas accessible to residential units.		

Figure 23-4D-5080(4) Encroachments Diagram

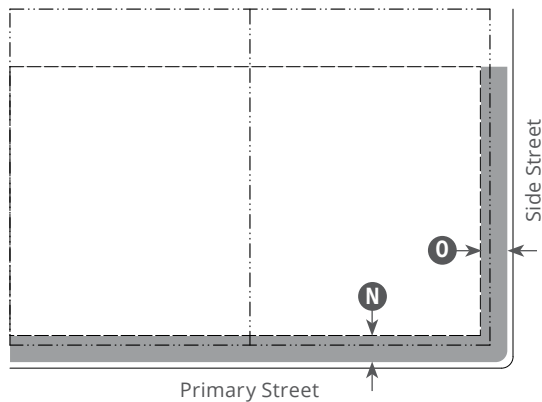
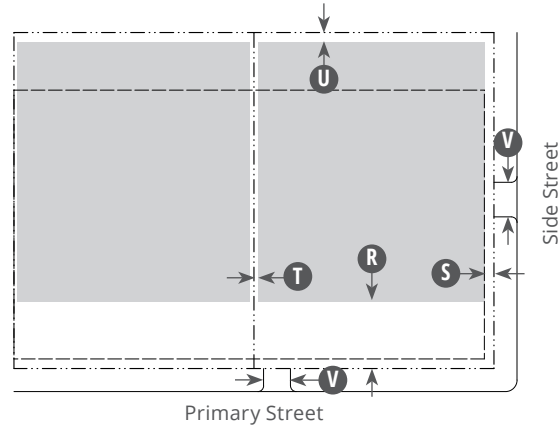


Figure 23-4D-5080(5) Parking Placement Diagram



Key for Diagrams

--- ROW / Lot Line
 --- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-5080(E) Encroachments

(1) Encroachment Type	Front (max.) N	Side St. (max.) O	Side (max.) P	Rear (max.) Q
Private Frontage				
Gallery ¹	14'	14'	—	—
Architectural Features	3'	3'	—	—
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement**.

¹ Galleries may encroach into the street right-of-way, subject to the approval of an encroachment agreement in compliance with Chapter 14-11 (Use of Right-of-Way).

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-5080(F) Parking

(1) Parking Requirements

See Section 23-4D-5040 (Parking Requirements) for standards.

(2) Parking Setback	Front R	Side St. S	Side T	Rear U
At-Grade and Above-Grade	35'	5'	2'	5'
Below-Grade	5'	5'	0'	30'
(3) Parking Driveway	≤ 40 spaces		> 40 spaces	
Width	14' max.		18' max.	

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-5080(G) Frontages			
(1) Private Frontage Type	Front	Side St.	Standards
Terrace	A	A	23-4E-1090
Lightwell ²	A	A	23-4E-1100
Shopfront	A	A	23-4E-1110
Forecourt	A	A	23-4E-1080
Gallery	A	A	23-4E-1120
For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.			
² Allowed only when necessary to accommodate grade change.			
(2) Pedestrian Access			
Pedestrian entrances must be provided at least every 75' along ground floor street facade and side street facade.			

Table 23-4D-5080(H) Impervious Cover			
(1) Impervious Cover	% (max.)	Standards	
Impervious Cover	80% ¹	23-3D-3	
Building Cover	70%		
See Division 23-3D-3 (Impervious Cover) for additional standards.			
¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.			
Table 23-4D-5080(I) Open Space			
(1) Open Space Type	Width (min.)	Depth (min.)	Percentage (min.)
Common	15'	15'	5% gross site area

23-4D-5090 Main Street 2B (MS2B) Zone

- (A) **Purpose.** Main street 2B (MS2B) zone is intended to provide housing and convenient access to services and amenities for nearby residents in a medium-intensity urban main street environment with active frontages located near transit along a neighborhood edge, along corridors, or in neighborhood nodes served by transit.
- (B) **Overview.** This zone allows multi-unit residential, office, service, and a broad array of retail uses in attached block-scale buildings. It can be summarized as:
- (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks triggered or height stepbacks by residential house-scale.
- (C) **Requirements.** A lot zoned main street 2B shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



MS2B

Table 23-4D-5090(A) Lot Size and Intensity			
Allowed Use	Lot		
	Dwelling Units Per Acre (max.)		Area (min.)
	Base Standard	Width (min.)	
Duplex	18	40'	5,000 sf
Live/Work	24	18'	1,800 sf
Multi-Family	N/R	18'	1,800 sf
Townhouse ¹	24	18'	1,800 sf
Work/Live	24	18'	1,800 sf
Other Allowed Uses	—	N/R	1,800 sf

¹ Shall be built in a run with a minimum of 3 attached buildings. Entire run shall not exceed 75' in length.

Figure 23-4D-5090(1) Building Placement Diagram

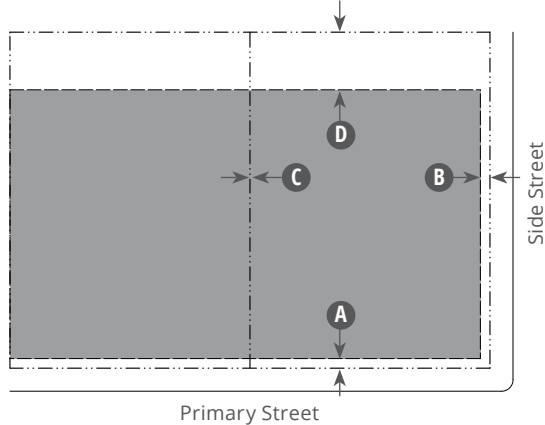
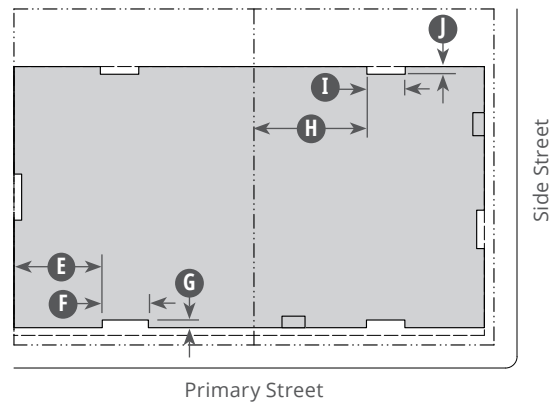


Figure 23-4D-5090(2) Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
 ■ Buildable Area

--- Building Setback Line

■ Building Footprint

Table 23-4D-5090(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	5'	5'	0'	5'
Maximum	10'	10'	N/R	N/R

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
For lots ≤ 75' wide	10'	10'	15'	30'
For lots > 75' wide	10'	10'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-5090(C) Building Form

(1) Building Articulation on Additions and New Construction

Articulation is required for three facades of a building.

(2) Primary Street Facade(s), All Stories

Facade length without articulation (max.)	200'	E
Articulation length (min.)	24'	F
Articulation depth (min.)	4'	G

(3) Other Facades, All Stories

Facade length without articulation (max.)	60'	H
Articulation length (min.)	24'	I
Articulation depth (min.)	4'	J

(4) Net Frontage defined by Building Facade

Location	Net Frontage
Front	75% min.
Side St.	75% min.

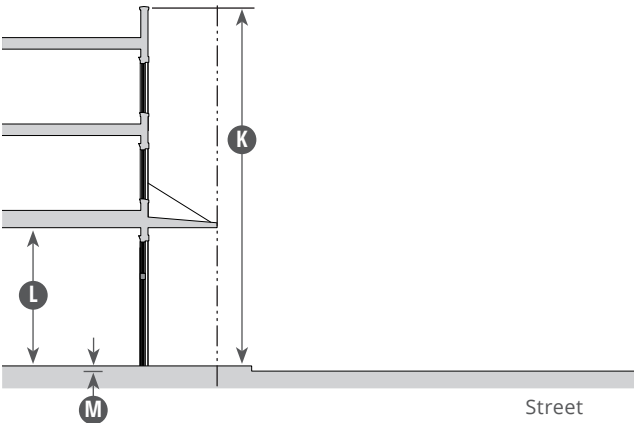
Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Figure 23-4D-5090(3) Building Height Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Table 23-4D-5090(D) Height		
(1) Primary Building		
Overall (max.)	45'	K
(2) Accessory Building		
To Top Plate (max.)	22'	
Overall (max.)	28'	
(3) Accessory Structure		
Overall (max.)	12'	
(4) Compatibility Height Stepback		
(a) Building height setbacks are required where a portion of a building is located:		
(i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;		
(ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or		
(ii) adjacent to a property zoned Residential House-Scale.		
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).		
(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:	
≤ 25'	18'	
25' - 50'	35'	
> 50'	Set by zone standards	

Table 23-4D-5090(D) Height (continued)		
(5) Primary Building, Ground Floor		
Floor-to-Ceiling Height ¹	14' min.	L
Finish Floor Height Above Curb for ground floor residential use within 10' of a street right-of-way ^{1, 2, 3}		
	18" min.	M
¹ Buildings existing at the time of adoption of this Land Development Code and additions to those buildings are exempt.		
² Primary buildings are exempt on lots where the existing grading slopes down and away from the street.		
³ Does not apply to lobbies used to access residential units or amenity areas accessible to residential units.		

Key for Tables — = Not Allowed

Figure 23-4D-5090(4) Encroachments Diagram

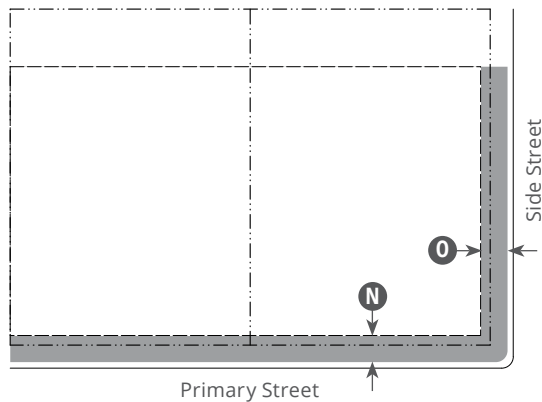
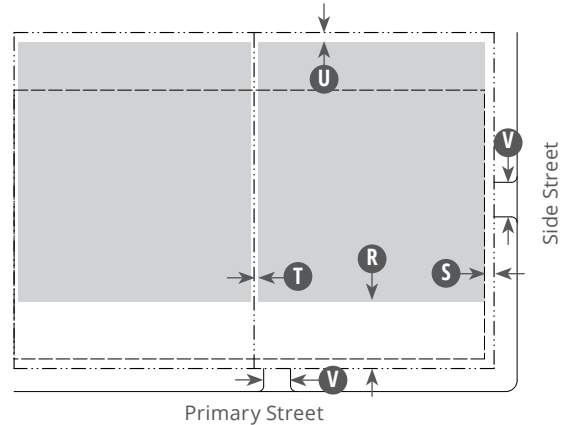


Figure 23-4D-5090(5) Parking Placement Diagram



Key for Diagrams

- ROW / Lot Line
 --- Building Setback Line

- Encroachment
 ■ Parking Area

Table 23-4D-5090(E) Encroachments

(1) Encroachment Type	Front (max.) N	Side St. (max.) O	Side (max.) P	Rear (max.) Q
Private Frontage				
Gallery ¹	14'	14'	—	—
Architectural Features	3'	3'	—	—
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement**.

¹ Galleries may encroach into the street right-of-way, subject to the approval of an encroachment agreement in compliance with Chapter 14-11 (Use of Right-of-Way).

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-5090(F) Parking

(1) Parking Requirements

See Section 23-4D-5040 (Parking Requirements) for standards.

(2) Parking Setback	Front R	Side St. S	Side T	Rear U
At-Grade and				
Above-Grade	35'	5'	2'	5'
Below-Grade	5'	5'	0'	30'
(3) Parking Driveway	≤ 40 spaces		> 40 spaces	
Width	14' max.		18' max.	

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-5090(G) Frontages			
(1) Private Frontage Type	Front	Side St.	Standards
Terrace	A	A	23-4E-1090
Lightwell ¹	A	A	23-4E-1100
Shopfront	A	A	23-4E-1110
Forecourt	A	A	23-4E-1080
Gallery	A	A	23-4E-1120
For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.			
¹ Allowed only when necessary to accommodate grade change.			
(2) Pedestrian Access			
Pedestrian entrances must be provided at least every 75' along ground floor street facade and side street facade.			

Table 23-4D-5090(H) Impervious Cover			
(1) Impervious Cover	% (max.)	Standards	
Impervious Cover	90% ²	23-3D-3	
Building Cover	80%		
See Division 23-3D-3 (Impervious Cover) for additional standards.			
³ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.			
Table 23-4D-5090(I) Open Space			
(1) Open Space Type	Width (min.)	Depth (min.)	Percentage (min.)
Common	15'	15'	5% gross site area

23-4D-5100 Main Street 2C (MS2C) Zone

- (A) **Purpose.** Main street 2C (MS2C) zone is intended to provide housing and convenient access to service, and amenities for nearby residents in a medium-intensity urban main street environment with active and residential frontages located near transit along a neighborhood edge, along corridors, or in neighborhood nodes served by transit.
- (B) **Overview.** This zone allows multi-unit residential, office, service, and broad array of retail uses in attached block-scale buildings. It can be summarized as:
- (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks triggered or height stepbacks by residential house-scale.
- (C) **Requirements.** A lot zoned main street 2C shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



MS2C

Table 23-4D-5100(A) Lot Size and Intensity			
Allowed Use	Lot		
	Dwelling Units Per Acre (max.)		
	Base Standard	Width (min.)	Area (min.)
Duplex	18	40'	5,000 sf
Live/Work	24	18'	1,800 sf
Multi-Family	N/R	18'	1,800 sf
Townhouse ¹	24	18'	1,800 sf
Work/Live	24	18'	1,800 sf
Other Allowed Uses	—	N/R	1,800 sf

¹ Shall be built in a run with a minimum of 3 attached buildings. Entire run shall not exceed 75' in length.

Figure 23-4D-5100(1) Building Placement Diagram

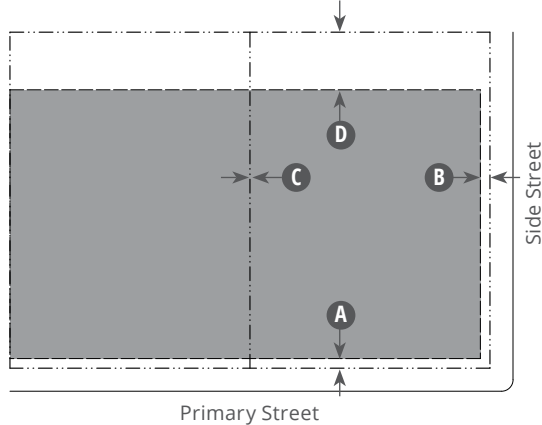
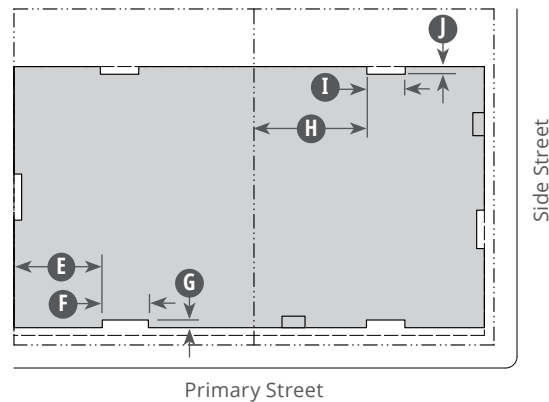


Figure 23-4D-5100(2) Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
 ■ Buildable Area

--- Building Setback Line ■ Building Footprint

Table 23-4D-5100(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	5'	5'	0'	5'
Maximum	10'	10'	N/R	N/R

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Front A	Side St. B	Side C	Rear D
For lots ≤ 75' wide	10'	10'	15'	30'
For lots > 75' wide	10'	10'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-5100(C) Building Form

(1) Building Articulation on Additions and New Construction

Articulation is required for three facades of a building.

(2) Primary Street Facade(s), All Stories

Facade Length without Articulation (max.)	200'	E
Articulation Length (min.)	24'	F
Articulation Depth (min.)	4'	G

(3) Other Facades, All Stories

Facade Length without Articulation (max.)	60'	H
Articulation Length (min.)	24'	I
Articulation Depth (min.)	4'	J

(4) Net Frontage defined by Building Facade

Location	Net Frontage
Front	75% min.
Side St.	75% min.

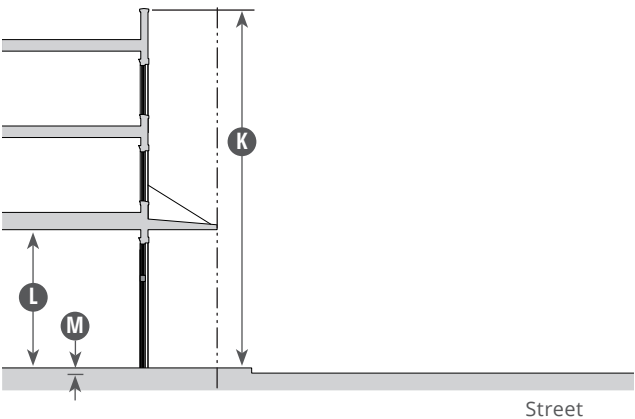
Key for Table B

A = Allowed

— = Not Allowed

N/R = No Requirement

Figure 23-4D-5100(3) Building Height Diagram



Key for Diagram

---ROW / Lot Line

Table 23-4D-5100(D) Height		
(1) Primary Building		
Overall (max.)	45'	K
(2) Accessory Building		
To Top Plate (max.)	22'	
Overall (max.)	28'	
(3) Accessory Structure		
Overall (max.)	12'	
(4) Compatibility Height Stepback		
(a) Building height setbacks are required where a portion of a building is located:		
(i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;		
(ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or		
(ii) adjacent to a property zoned Residential House-Scale.		
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).		
(c) Distance from the lot		
line of the triggering	Overall height shall not	
property:	exceed:	
≤ 25'	18'	
25' - 50'	35'	
> 50'	Set by zone standards	

Table 23-4D-5100(D) Height (continued)		
(5) Primary Building, Ground Floor		
Floor-to-Ceiling Height ¹	14' min.	L
Finish Floor Height Above Curb for ground floor residential use within 10' of a street right-of-way ^{1, 2, 3}		
	18" min.	M
¹ Buildings existing at the time of adoption of this Land Development Code and additions to those buildings are exempt.		
² Primary buildings are exempt on lots where the existing grading slopes down and away from the street.		
³ Does not apply to lobbies used to access residential units or amenity areas accessible to residential units.		

Figure 23-4D-5100(4) Encroachments Diagram

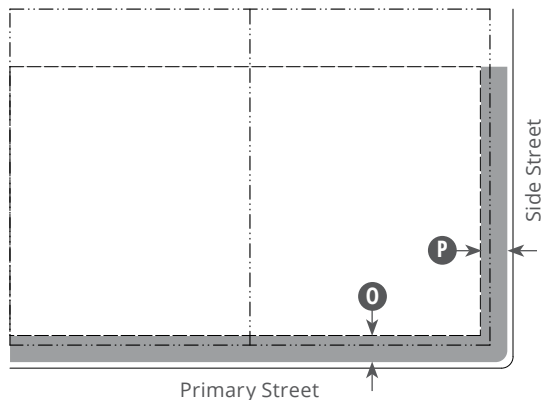
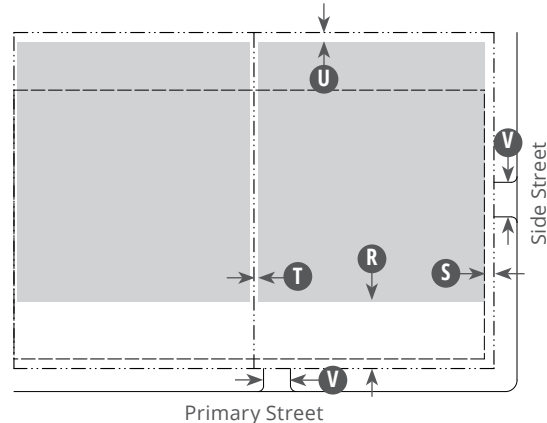


Figure 23-4D-5100(5) Parking Placement Diagram



Key for Diagrams

- ROW / Lot Line
--- Building Setback Line

Encroachment

Parking Area

Table 23-4D-5100(E) Encroachments

(1) Encroachment Type	Front (max.) N	Side St. (max.) O	Side (max.) P	Rear (max.) Q
Private Frontage				
Gallery ¹	14'	14'	—	—
Architectural Features	3'	3'	—	—
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement**.

¹ Galleries may encroach into the street right-of-way, subject to the approval of an encroachment agreement in compliance with Chapter 14-11 (Use of Right-of-Way).

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-5100(F) Parking

(1) Parking Requirements

See Section 23-4D-5040 (Parking Requirements) for standards.

(2) Parking Setback	Front R	Side St. S	Side T	Rear U
At-Grade and				
Above-Grade	35'	5'	2'	5'
Below-Grade	5'	5'	0'	30'
(3) Parking Driveway	≤ 40 spaces		> 40 spaces	
Width	14' max.		18' max.	

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-5100(G) Frontages			
(1) Private Frontage Type	Front	Side St.	Standards
Terrace	A	A	23-4E-1090
Lightwell ²	A	A	23-4E-1100
Shopfront	A	A	23-4E-1110
Forecourt	A	A	23-4E-1080
Gallery	A	A	23-4E-1120
For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.			
² Allowed only when necessary to accommodate grade change.			
(2) Pedestrian Access			
Pedestrian entrances must be provided at least every 75' along ground floor street facade and side street facade.			

Table 23-4D-5100(H) Impervious Cover			
(1) Impervious Cover	% (max.)	Standards	
Impervious Cover	90% ¹	23-3D-3	
Building Cover	80%		
See Division 23-3D-3 (Impervious Cover) for additional standards.			
¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.			
Table 23-4D-5100(I) Open Space			
(1) Open Space Type	Width (min.)	Depth (min.)	Percentage (min.)
Common	15'	15'	5% gross site area

Common open space requirement may be met by ground floor, upper floor, and/or roof common open space.

Common open space requirements must not be met by open space provided in required front or side-street setbacks, except when provided as an open space as set forth in Division 23-4C-2 (Civic and Open Spaces).

23-4D-5110 Main Street 3A (MS3A) Zone

- (A) **Purpose.** Main street 3A (MS3A) zone is intended to provide housing and convenient access to services and amenities for nearby residents in a high-intensity urban main street environment with active frontages located in regional centers, or along well-connected corridors served by frequent transit.
- (B) **Overview.** This zone allows multi-unit residential, office, service, and a broad array of retail uses in attached block-scale buildings. It can be summarized as:
- (1) eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks triggered or height stepbacks by residential house-scale.
- (C) **Requirements.** A lot zoned main street 3A shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).

MS3A

23-4D-5110(A) Lot Size and Intensity			
Allowed Use	Lot		
	Dwelling Units Per Acre (max.)		Area (min.)
	Base Standard	Width (min.)	
Duplex	18	40'	5,000 sf
Live/Work	24	18'	1,800 sf
Multi-Family	N/R	18'	1,800 sf
Townhouse	24	18'	1,800 sf
Work/Live	24	18'	1,800 sf
Other Allowed Uses	—	N/R	4,000 sf

Figure 23-4D-5110(1) Building Placement Diagram

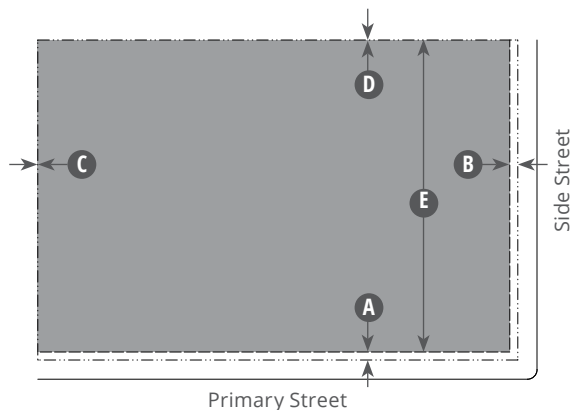
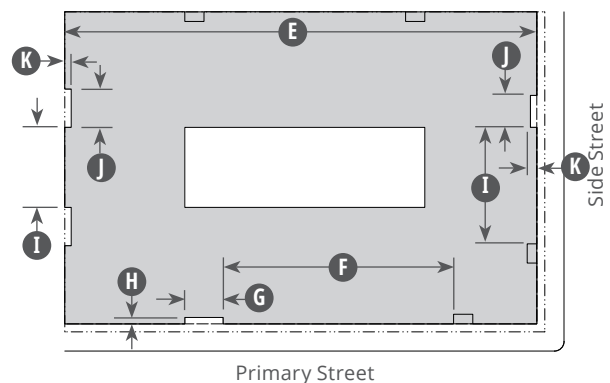


Figure 23-4D-5110(2) Building Form Diagram



Key for Diagrams

--- ROW / Lot Line

■ Buildable Area

--- Building Setback Line

■ Building Footprint

23-4D-5110(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
--	------------	---------------	-----------	-----------

Minimum	5'	5'	0'	0'
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Maximum	10'	10'	N/R	N/R
---------	-----	-----	-----	-----

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Front A	Side St. B	Side C	Rear D
For lots ≤ 75' wide	5'	5'	15'	30'
For lots > 75' wide	5'	5'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-5110(C) Building Form

(1) Overall Building Envelope

Width (max.)	620'	E
--------------	------	---

Courtyard with min. dimensions of 50' x 150' required when building length exceeds 260'

(2) Building Articulation on Additions and New Construction

Articulation is required for three facades of a building.

(3) Primary Street Facade(s), All Stories

Facade Length without Articulation (max.)	200'	F
---	------	---

Articulation Length (min.)	24'	G
----------------------------	-----	---

Articulation Depth (min.)	4'	H
---------------------------	----	---

(4) Other Facades, All Stories

Facade Length without Articulation (max.)	60'	I
---	-----	---

Articulation Length (min.)	24'	J
----------------------------	-----	---

Articulation Depth (min.)	4'	K
---------------------------	----	---

(5) Net Frontage defined by Building Facade

Location	Net Frontage
Front	90% min.
Side St.	75% min.

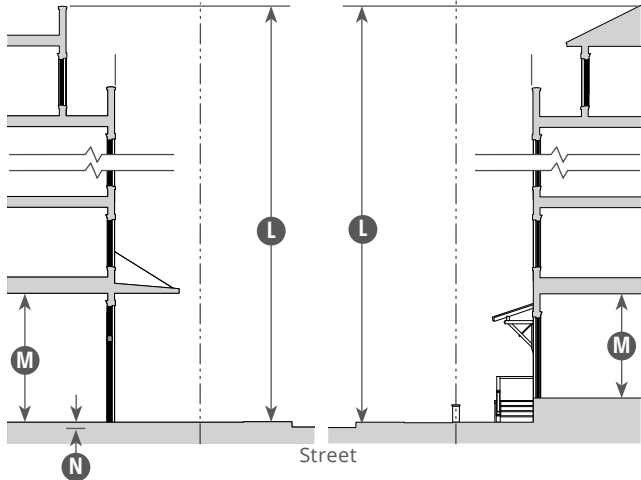
Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Figure 23-4D-5110(3) Building Height Diagram



Key for Diagram

---ROW / Lot Line

⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-5110(D) Height

(1) Primary and Accessory Building	Base	
	Standard	AHBP Bonus ¹
Overall (max.)	60'	+25' L

(2) Accessory Structure

Overall (max.)	12'
----------------	-----

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

(3) Compatibility Height Stepback

(a) Building height stepbacks are required where a portion of a building is located:

- (i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;
- (ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or
- (ii) adjacent to a property zoned Residential House-Scale.

(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).

(c) Distance from the lot

line of the triggering property:	Overall height shall not exceed:
≤ 25'	18'
25' - 50'	35'
50' - 100'	45'
> 100'	Set by zone standards

Table 23-4D-5110(D) Height (continued)

(4) Primary Building, Ground Floor

Floor-to-Ceiling Height ²	14' min. M
--------------------------------------	-------------------

Finish Floor Height Above Curb for ground floor residential use within 10' of a street right-of-way ^{2, 3, 4}	18" min. N
--	-------------------

² Buildings existing at the time of adoption of this Land Development Code and additions to those buildings are exempt.

³ Primary buildings are exempt on lots where the existing grading slopes down and away from the street.

⁴ Does not apply to lobbies used to access residential units or amenity areas accessible to residential units.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Figure 23-4D-5110(4) Encroachments Diagram

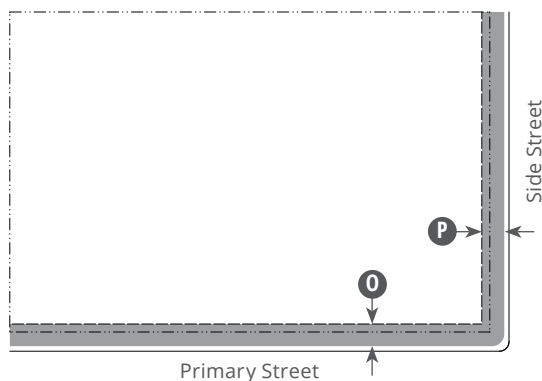
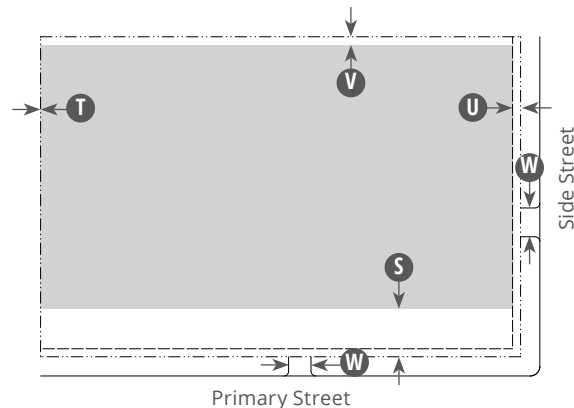


Figure 23-4D-5110(5) Parking Diagram

**Key for Diagrams**

--- ROW / Lot Line
 --- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-5110(E) Encroachments

(1) Encroachment Type	Front (max.) O	Side St. (max.) P	Side (max.) Q	Rear (max.) R
Private Frontage				
Gallery ⁵	14'	14'	—	—
Architectural Features	3'	3'	—	—
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement**.

⁵Galleries may encroach into the street right-of-way, subject to the approval of an encroachment agreement in compliance with Chapter 14-11 (Use of Right-of-Way).

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-5110(F) Parking

(1) Parking Requirements

See Section 23-4D-5040 (Parking Requirements) for standards.

(2) Parking Setback	Front S	Side St. T	Side U	Rear V
At-Grade	30'	5'	0'	5'
Above-Grade	30' ²	5'	0'	5'
Below-Grade	5'	5'	0'	0'

Parking structures may be exposed to a Side Street for a length of 120' max. so long as the parking structure maintains a pattern of fenestration that is consistent with that of the primary building .

² Buildings less than 150' in length are exempt from upper floor front parking setbacks.

(3) Parking Driveway

Width 25' max. W

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-5110(G) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Terrace ¹	A	A	23-4E-1090
Shopfront	A	A	23-4E-1110
Gallery	A	A	23-4E-1120

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

¹ Allowed only when necessary to accommodate grade change.

(2) Pedestrian Access

Pedestrian entrances must be provided at least every 75' along ground floor street facade and side street facade.

Table 23-4D-5110(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	95% ¹	23-3D-3
Building Cover	90%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

See Section 23-4E-4080 (Functional Green) for additional standards for projects with impervious cover exceeding 80%.

¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-5110(I) Open Space

(1) Open Space Type	Width (min.)	Depth (min.)	Percentage (min.)
Common	20'	20'	5% gross site area

Common open space requirement may be met by ground floor, upper floor, and/or roof common open space.

Common open space requirements must not be met by open space provided in required front or side street setbacks, except when provided as an open space as set forth in Division 23-4C-2 (Civic and Open Spaces).

23-4D-5120 Main Street 3B (MS3B) Zone

- (A) **Purpose.** Main street 3B (MS3B) zone is intended to provide housing and convenient access to services and amenities for nearby residents in a high-intensity urban main street environment with active and residential frontages located in regional centers, or along well-connected corridors served by frequent transit.
- (B) **Overview.** This zone allows multi-unit residential, office, service, and a broad array of retail uses in attached block-scale buildings. It can be summarized as:
- (1) eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks triggered or height stepbacks by residential house-scale.
- (C) **Requirements.** A lot zoned main street 3B shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



MS3B

Table 23-4D-5120(A) Lot Size and Intensity			
Allowed Use	Lot		
	Dwelling Units Per Acre (max.)		
	Base Standard	Width (min.)	Area (min.)
Duplex	18	40'	5,000 sf
Live/Work	24	18'	1,800 sf
Multi-Family	N/R	18'	1,800 sf
Townhouse	24	18'	1,800 sf
Work/Live	24	18'	1,800 sf
Other Allowed Uses	—	N/R	4,000 sf

Figure 23-4D-5120(1) Building Placement Diagram

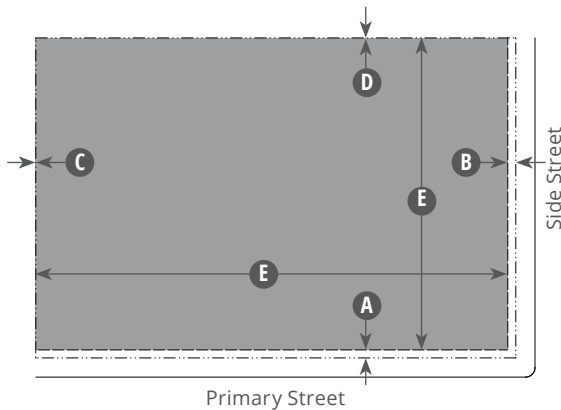
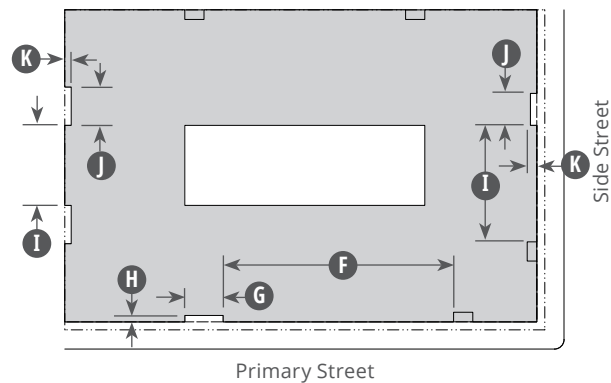


Figure 23-4D-5120(2) Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
 ■ Buildable Area

--- Building Setback Line

■ Building Footprint

Table 23-4D-5120(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	5'	5'	0'	0'
Maximum	10'	10'	N/R	N/R

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
For lots ≤ 75' wide	5'	5'	15'	30'
For lots > 75' wide	5'	5'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-5120(C) Building Form

(1) Overall Building Envelope

Width (max.) 620' E

Courtyard with min. dimensions of 50' x 150' required when building length exceeds 260'

(2) Building Articulation on Additions and New Construction

Articulation is required for three facades of a building.

(3) Primary Street Facade(s), All Stories

Facade Length without Articulation (max.) 200' F

Articulation Length (min.) 24' G

Articulation Depth (min.) 4' H

(4) Other Facades, All Stories

Facade Length without Articulation (max.) 60' I

Articulation length (min.) 24' J

Articulation depth (min.) 4' K

(5) Net Frontage defined by Building Facade

Location	Net Frontage
Front	90% min.
Side St.	75% min.

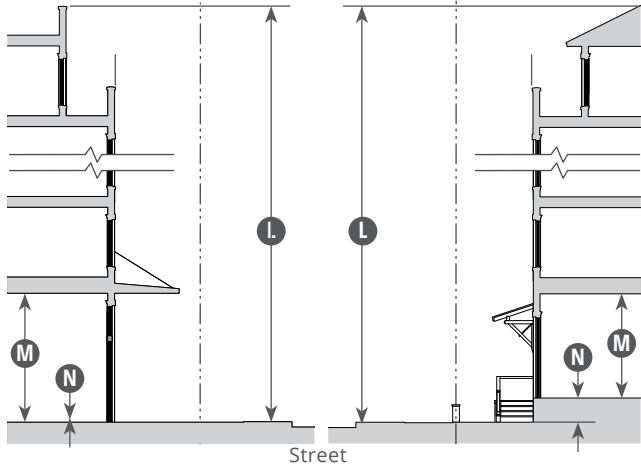
Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Figure 23-4D-5120(3) Building Height Diagram



Key for Diagram

---ROW / Lot Line

⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-5120(D) Height

(1) Primary and Accessory Building	Base	
	Standard	AHBP Bonus ¹
Overall (max.)	60'	+25' L

(2) Accessory Structure

Overall (max.)	12'
----------------	-----

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

(3) Compatibility Height Stepback

- (a) Building height setbacks are required where a portion of a building is located:
- (i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;
 - (ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or
 - (ii) adjacent to a property zoned Residential House-Scale.

(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).

(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:
≤ 25'	18'
25' - 50'	35'
50' - 100'	45'
> 100'	Set by zone standards

Table 23-4D-5120(D) Height (continued)

(4) Primary Building, Ground Floor	
Floor-to-Ceiling Height ²	14' min. M
Finish Floor Height Above Curb for ground floor residential use within 10' of a street right-of-way ^{2, 3, 4}	18" min. N

² Buildings existing at the time of adoption of this Land Development Code and additions to those buildings are exempt.

³ Primary buildings are exempt on lots where the existing grading slopes down and away from the street.

⁴ Does not apply to lobbies used to access residential units or amenity areas accessible to residential units.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Figure 23-4D-5120(4) Encroachments Diagram

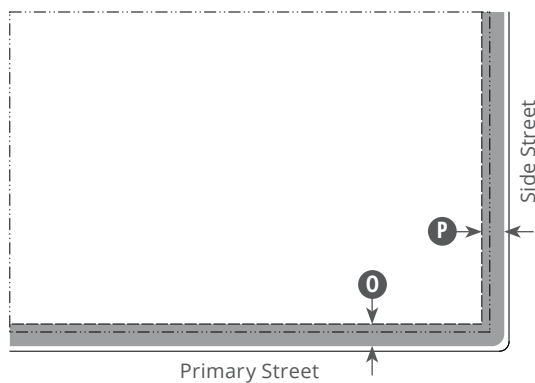
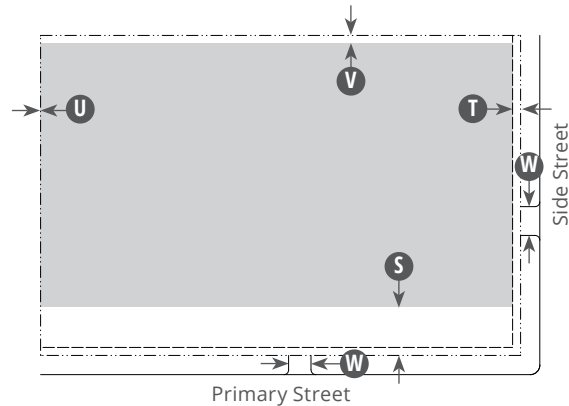


Figure 23-4D-5120(5) Parking Diagram

**Key for Diagrams**

--- ROW / Lot Line
 --- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-5120(E) Encroachments

(1) Encroachment Type	Front (max.) O	Side St. (max.) P	Side (max.) Q	Rear (max.) R
Private Frontage				
Gallery ¹	14'	14'	—	—
Architectural Features	3'	3'	—	—
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement**.

¹ Galleries may encroach into the street right-of-way, subject to the approval of an encroachment agreement in compliance with Chapter 14-11 (Use of Right-of-Way).

(2) Height Encroachments

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-5120(F) Parking

(1) Parking Requirements

See Section 23-4D-5040 (Parking Requirements) for standards.

(2) Setback (min.)	Front S	Side St. T	Side U	Rear V
At-Grade	30'	5'	0'	5'
Above-Grade	30' ³	5'	0'	5'
Below-Grade	5'	5'	0'	0'

Parking structures may be exposed to a Side Street for a length of 120' max. so long as the parking structure maintains a pattern of fenestration that is consistent with that of the primary building .

³ Buildings less than 150' in width are exempt from upper floor front parking setbacks.

(3) Parking Driveway

Width 25' max. W

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-5120(G) Frontages			
(1) Private Frontage Type	Front	Side St.	Standards
Terrace ²	A	A	23-4E-1090
Shopfront	A	A	23-4E-1110
Gallery	A	A	23-4E-1120
For non-residential uses, loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.			
² Allowed only when necessary to accommodate grade change.			
(2) Pedestrian Access			
Pedestrian entrances must be provided at least every 75' along ground floor street facade and side street facade.			

Table 23-4D-5120(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	95% ¹	23-3D-3
Building Cover	90%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		
See Section 23-4E-4080 (Functional Green) for additional standards for projects with impervious cover exceeding 80%.		
¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.		

Table 23-4D-5120(I) Open Space			
(2) Open Space Type	Width (min.)	Depth (min.)	Percentage (min.)
Common	20'	20'	5% gross site area
Common open space requirement may be met by ground floor, upper floor, and/or roof common open space.			
Common open space requirements must not be met by open space provided in required front or side street setbacks, except when provided as an open space as set forth in Division 23-4C-2 (Civic and Open Spaces).			

Division 23-4D-6: Regional Center Zones

Contents

23-4D-6010	Purpose	1
23-4D-6020	Applicability	1
23-4D-6030	Allowed Uses and Permit Requirements	2
23-4D-6040	Parking Requirements	7
23-4D-6050	General to Regional Center Zones	8
23-4D-6060	Commercial Center (CC) Zone	11
23-4D-6070	Urban Center (UC) Zone	17
23-4D-6080	Downtown Core (DC) Zone	23

23-4D-6010 Purpose

This division establishes the land uses and building form requirements for property zoned regional center. The requirements implement the Comprehensive Plan and are intended to ensure that proposed development is compatible with existing and future development on neighboring properties. Additionally, the requirements are intended to produce an environment of desirable character, consistent with the Comprehensive Plan and applicable area plan.

23-4D-6020 Applicability

- (A) This division applies to a property that is zoned in a district included within regional center zones.
- (B) The uses allowed in regional center zones are subject to the requirements of this division and any applicable regulations within Article 23-4E (Supplemental to Zones).
- (C) In addition to the requirements included within in this division and Article 23-4E (Supplemental to Zones), a lot or use may also subject to the following provisions in this Title:
 - (1) Article 23-3C (Urban Forest Protection and Replenishment);
 - (2) Article 23-3D (Water Quality);
 - (3) Article 23-3E (Affordable Housing);
 - (4) Division 23-4E-2 (Outdoor Lighting);
 - (5) Division 23-4E-7 (Additional General Standards);
 - (6) Section 23-4E-8060 (Building Design);
 - (7) Chapter 23-8 (Signs); and
 - (8) Article 23-10E (Drainage).
- (D) The provisions identified in Subsection (C) may not be a complete list of requirements that apply to a lot or use. Failure to include a specific provision in Subsection (C) or anywhere else in this division does not exempt the lot or use from complying with the provision.

23-4D-6030 Allowed Uses and Permit Requirements

(A) Allowed Land Uses.

- (1) Table (A) establishes the land uses that are allowed in each regional center zone.
- (2) Each land use listed is defined in Article 23-2M (Definitions and Measurements).
- (B) If a table identifies a permit requirement for the land use, then a property may not be used in that manner until the property owner or property operator obtains a permit.
- (C) If a land use is subject to additional requirements, the table identifies the sections within Division 23-4E-6 (Specific to Use) that applies.
- (D) If a land use is not marked with "N/A" or is not included in the table, it is not allowed in a regional center zone.

Table 23-4D-6030(A) Allowed Uses in Regional Center Zones CC-DC				
Use Type	Specific to Use Requirements	CC	UC	DC
(1) Residential				
Accessory Dwelling Unit - Commercial	23-4E-6040	P	P	P
Bed and Breakfast	23-4E-6090	P	P	P
Cooperative Housing		P	P	P
Duplex	23-4E-6170	P	P	P
Group Residential		P	P	P
Live/Work	23-4E-6210	P	P	P
Multi-Family	23-4E-6250	P	P	P
Senior/Retirement Housing				
≤12	23-4E-6330	P	P	P
>12	23-4E-6330	P	P	P
Short-term Rental				
Types 1	23-4E-6340	P	P	P
Types 2	23-4E-6340	—	—	—
Types 3	23-4E-6340	P	P	P
Work/Live	23-4E-6380	P	P	P

Key for Table 23-4D-6030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-6030(A) Allowed Uses in Regional Center Zones CC–DC (continued)

Use Type	Specific to Use Requirements	CC	UC	DC
(2) Residential Support				
Residential Care Facility		P	P	P
Transitional and Supportive Housing		CUP	CUP	CUP
(3) Services				
Alternative Financial Services	23-4E-6080	—	CUP	P
Animal Service/Boarding				
Level 1		P	P	P
Level 2		—	—	—
Level 3		—	—	—
Business and Financial/ Professional Services		P	P	P
Commercial Services and Repair				
No Outside Storage		P	P	P
w/ Incidental Outside Storage		—	—	—
Day Care				
Small <7		P	P	P
Large 7 ≥ and ≤20		P	P	P
Commercial		P	P	P
Drive Through, Retail, or Service Facility	23-4E-6160	CUP	CUP	CUP
Funeral/Mortuary Home		P	P	P
Hospital		P	P	P
Hotel/Motel		P	P	P
Medical Services				
<2,500 sf		P	P	P
>2,500 sf		P	P	P
Pawn Shops		P	P	P
Personal Services				
Non-restricted		P	P	P
Restricted		MUP	MUP	CUP

Key for Table 23-4D-6030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-6030(A) Allowed Uses in Regional Center Zones CC–DC (continued)				
Use Type	Specific to Use Requirements	CC	UC	DC
(4) Office				
Office, General (non-medical)		P	P	P
(5) Civic and Public Assembly				
Government		P	P	P
Library, Museum, or Public Art Gallery		P	P	P
Meeting Facility (public or private)		P	P	P
Public Safety Facility		P	P	P
Religious Assembly Facility		P	P	P
School				
Business, or Trade	23-4E-6320	P	P	P
College or University	23-4E-6320	P	P	P
Private Primary	23-4E-6320	P	P	P
Private Secondary	23-4E-6320	P	P	P
Public Primary	23-4E-6320	P	P	P
Public Secondary	23-4E-6320	P	P	P
(6) Restaurant and Bars				
Bar/Nightclub				
Level 1		P	P	P
Level 2		P	P	P
Micro-Brewery/Micro-Distillery/Winery		P	P	P
Mobile Food Sales	23-4E-6230	P	P	P
Restaurant				
w/o Alcohol Sales		P	P	P
w/ Alcohol Sales	23-4E-6310	P	P	P
Drive Through	23-4E-6160	—	—	—
Late Night Operation	23-4E-6310	P	P	P

Key for Table 23-4D-6030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-6030(A) Allowed Uses in Regional Center Zones CC–DC (continued)

Use Type	Specific to Use Requirements	CC	UC	DC
(7) Retail				
Alcohol Sales	23-4E-6070	P	P	P
Commercial Food Preparation		P	P	P
Food Sales		P	P	P
General Retail				
≤ 5,000 sq ft		P	P	P
>5,000 and ≤10,000 sf		P	P	P
> 10,000 and ≤ 100,000 sf		P	MUP	P
> 100,000 sf		CUP	—	CUP
w/ Onsite Production		P	P	P
w/ Outside Storage	23-4E-6190	—	CUP	—
Mobile Retail Sales	23-4E-6240	P	P	P
(8) Entertainment and Recreation				
Adult Entertainment	23-4E-6060	P/CUP	—	P/CUP
Convention Center	23-4E-6140	—	—	P
Performance Venue/Theater	23-4E-6260			
Indoor	23-4E-6260			
≤2,500 sf	23-4E-6260	P	P	P
2,500-10,000 sf	23-4E-6260	P	P	P
> 10,000 sf	23-4E-6260	P	P	P
Outdoor	23-4E-6260			
≤ 2,500 sf	23-4E-6260	P	P	P
2,500-10,000 sf	23-4E-6260	P	MUP	P
> 10,000 sf	23-4E-6260	MUP	MUP	MUP
Recreation				
Indoor ≤ 5,000 sf	23-4E-6290	P	P	P
Indoor > 5,000 sf	23-4E-6290	P	CUP	P
Outdoor, Formal	23-4E-6290	P	P	P
Outdoor, Informal	23-4E-6290	P	P	P
Outdoor, Natural	23-4E-6290	—	—	P
Spectator Sport or Entertainment		P	MUP	MUP

Key for Table 23-4D-6030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-6030(A) Allowed Uses in Regional Center Zones CC–DC (continued)

Use Type	Specific to Use Requirements	CC	UC	DC
Studio: art, dance, martial arts, music	23-4E-6370	P	P	P
(9) Industrial				
Manufacturing and Storage				
Light	23-4E-6220	P	—	P
General	23-4E-6220	—	—	—
Restricted	23-4E-6220	—	—	—
(10) Agriculture				
Community Agriculture	23-4E-6120	P	MUP	P
(11) Automobile Related				
Automobile Sales, Rental, and Storage		CUP	—	CUP
Automobile Repair		CUP	—	—
Commercial Vehicle Storage and Dispatch		CUP	—	CUP
Gas Station	23-4E-6180	CUP	CUP	CUP
Parking Facility		CUP	CUP	CUP
(12) Innovation and Technology				
Research and Development				
Non-restricted	23-4E-6300	MUP	MUP	MUP
Restricted	23-4E-6300	—	—	—
(13) Other				
Accessory Uses	23-4E-6050	P	P	P
Communications	23-4E-6110	P	P	P
Helicopter and Non-fixed Wing Aircraft Facilities		CUP	CUP	CUP
Utilities				
Local		P	P	P
Major		—	—	—
Telecommunications	23-4E-6370	P	P	P
Temporary Uses	23-4B-1050	TUP	TUP	TUP
Transit Terminal		CUP	CUP	CUP

Key for Table 23-4D-6030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

23-4D-6040 Parking Requirements

- (A) **Parking Required.** Regional center zones do not require off-street parking.
- (B) **Parking Location Standards.**
 - (1) Off-Street Parking Location Standards.
 - (a) Parking is prohibited between building frontage and front property line.
 - (b) Maximum 2 curb cuts per block **face**.
 - (c) Off-street drop-offs and port-cocheres are allowed only for hotels in the Waterfront **District**.
 - (d) In the Red River District, drop-off and parking lanes must be retained on both sides of Red River **Live Music Subdistrict**.
 - (e) Maximum driveway width is 25'.
 - (f) See **Section 23-4D-9080 (Downtown Plan Overlay Zone)** for additional parking and driveway requirements.

23-4D-6050 General to Regional Center Zones

- (A) **Applicability.** The standards of this Section apply to all proposed development in compliance with this Division, unless otherwise provided in this Section. When in conflict, the standards of this Section supersede the standards of the base zone.
- (B) **Building Frontage and Placement**
- (1) **Building Placement**
- (a) Exemptions
- (i) Drive-throughs. If a drive-through business has only one access point to a public thoroughfare, a circulation lane maximum 20 feet wide may be provided between the building and the property line. However, there must be a public sidewalk that crosses the circulation lane providing direct pedestrian access to the building entrance visible from the property line.
 - (ii) Restaurant or Gas Stations. Building placement standards do not apply to redevelopment of an existing pad site restaurant or gas station use that remains as a restaurant or gas station and the development occurs within the existing site configuration.
 - (iii) Narrow Interior Lots. Narrow interior lots less than 65 feet wide with only a single point of access to a public roadway are exempt from building placement standards.
- (2) **Alternate Active Private Frontage.** As an option, active private frontage may be used to substitute in whole, or in part, for the placement standards required in the zone. Active private frontage must conform to the standards of this Subsection. See [Figure 23-4D-6050 \(1\) \(Building Placement and Alternative\)](#) for reference.
- (a) Active private frontage areas must include one or more of the following amenities:
- (i) Accessory outdoor dining, provided that the dining area is separated from the public right-of-way only with planters, shrubs, or fencing with a maximum height of 42 inches;
 - (ii) Balconies, pedestrian sidewalks, porches, accessible ramps, and stoops; provided that no such feature must extend into the public right-of-way without a license agreement;
 - (iii) Terraces (see Section 23-4E-1100 [Terrace] for standards);

- (iv) Landscape and water features;
 - (v) Plazas; and
 - (vi) Incidental display and sales.
- (b) Any amenities provided in active public use areas must not obstruct the open pedestrian connection between the building's primary entrance and the sidewalk.

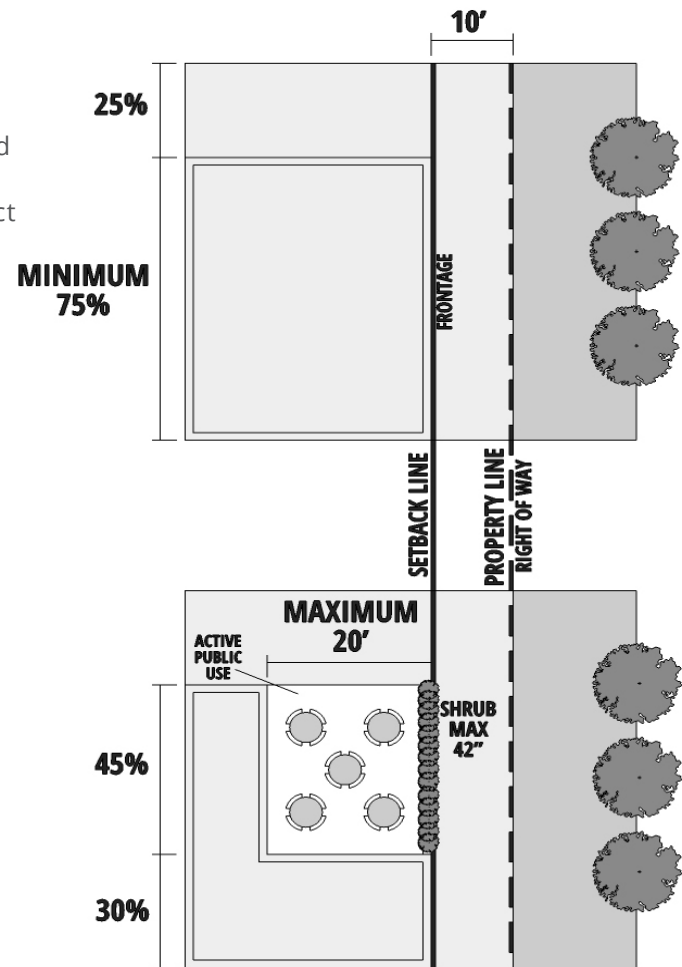


Figure 23-4D-6050(1) Building Placement and Alternative

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23-4D-6060 Commercial Center (CC) Zone

- (A) **Purpose.** Commercial center (CC) zone is an urban mixed use zone intended to **implement the Downtown Area Plan and** provide city wide access to employment, shopping, entertainment, and services in a highly walkable, transit-rich environments that transitions from neighborhoods or main street zones to Downtown Austin.
- (B) **Overview.** This zone allows multi-unit residential, office, service, and a broad array of retail uses in attached mid-rise and high-rise block scale buildings. It can be summarized as:
- (1) eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone does not require additional setbacks triggered but may require height setbacks by residential house-scale.
- (C) **Sub-Zones.** Commercial center zone includes subzones with specific height limitations. The commercial center zone includes the following sub-zones:
- (1) CC-40' (CC40);
 - (2) CC-60' (CC60);
 - (3) CC-80' (CC80); and
 - (4) CC-120' (CC120).
- (D) **Requirements.** A lot zoned commercial center shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover);
 - (9) Table (I) (Open Space);
 - (10) Table (J) (Additional Standards); and
 - (11) Table (K) (Additional Compatibility).

Table 23-4D-6060(A) Lot Size and Intensity

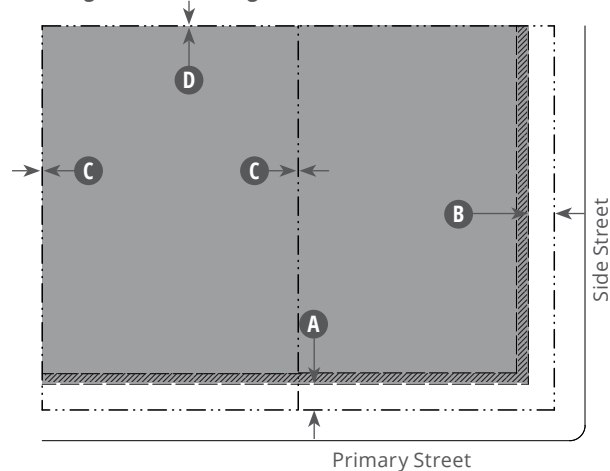
Lot Size			
Minimum		N/R	
Lot Width			
Minimum		N/R	
Intensity ¹	Dwelling Units per Acre	FAR (max.) ²	Mas FAR with Bonus
CC-40' (CC40) Sub-zone	N/R	1.0	See Division 23-3D-2 (Downtown Density Bonus Program)
CC-60' (CC60) Sub-zone	N/R	2.0	
CC-80' (CC80) Sub-zone	N/R	3.0	
CC-120' (CC120) Sub-zone	N/R	5.0	

¹ May be eligible for density bonus under Article 23-3E (Affordable Housing).

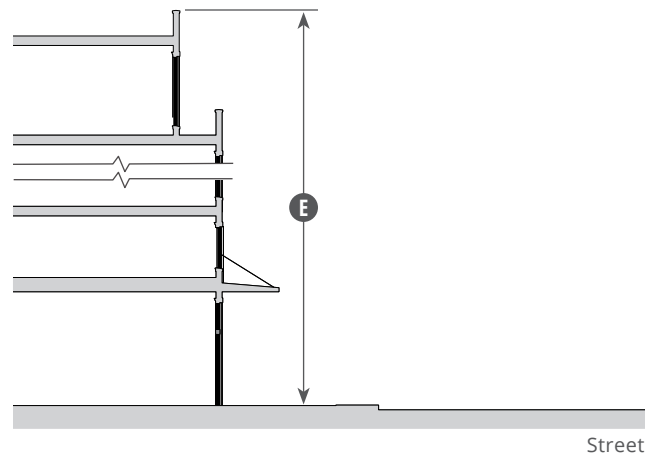
² The following are exempt from FAR calculations:

- Retail and restaurant uses on the ground floor along MLK Blvd, 12th Street west of West Avenue and 15th Street east of Rio Grande street
- Retail and restaurant uses on the ground floor on Pedestrian Activity streets in the Waterfront District
- Live music venues and other cultural uses in the Red River District, approved by the Planning Director

Building Placement Diagram



Building Height Diagram



Key for Diagrams

--- ROW / Lot Line
 --- Building Setback Line

█ Buildable Area
 █ Facade Zone
 ⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-6060(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front	Side St.	Side	Rear
	A	B	C	D
Minimum ¹	5'	5'	0'	0'
Maximum ¹	10' ²	10' ²	N/R	N/R

Additional setback and/or easement may be required where street right-of-way or utilities easement is required.

¹ The requirements in Section 23-4D-9080 for additional setback standards supersede in the event of conflict.

² Maximum setback for the first four stories above ground level only. Does not apply to portion of a building adjacent to a plaza or a protected tree.

Table 23-4D-6060(C) Building Form

(1) Net Frontage defined by Building Facade

Location	Net Frontage
Front ³	75% min.
Side St. ³	75% min.

³ See exemptions in Subsection 23-4D-6050 (B)(1). Where there is not enough building frontage to meet the standards, an active private frontage is required in compliance with Section 23-4D-6050(B) (2). See Section 23-4D-9080 (Downtown Plan Overlay Zone) If the building provides publicly accessible open space consistent with Section 23-4C-1040 (Civic Open Space), additional setback is allowed subject to approval by the Development Services Director.

Table 23-4D-6060(D) Height

(1) All Buildings	Base Standard	Max Height with Bonus
Sub-zone	Overall (max.)	E
CC-40' (CC40)	40'	See Division 23-3E-2 (Downtown Density Bonus Program)
CC-60' (CC60)	60'	
CC-80' (CC80)	80'	
CC-120' (CC120)	120'	

(2) Building Height Stepback

Building height stepback required for portions of the building adjacent, or across an alley from Residential House-Scale Zone is as follows:

Distance from Lot Line of Triggering Property	Height (max.)
≤ 25'	18'
25'–50'	35'
50'–100'	lesser of 45' or Sub-zone maximum
> 100'	Set by sub-zone standards

In addition to the requirements set forth in the preservation plan established in Section 23-4D-9100 (Historic Landmark and Historic District Overlay Zones), rooftop additions to historic structures in the East 6th Street National Register Historic District or on Congress Avenue must be stepped back 15' from the front facade.

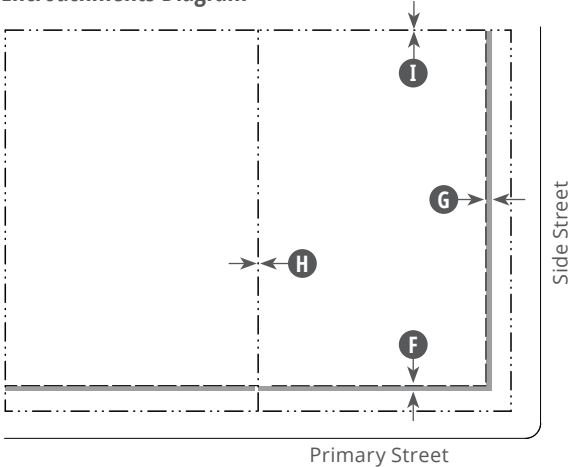
Key for Tables

A = Allowed

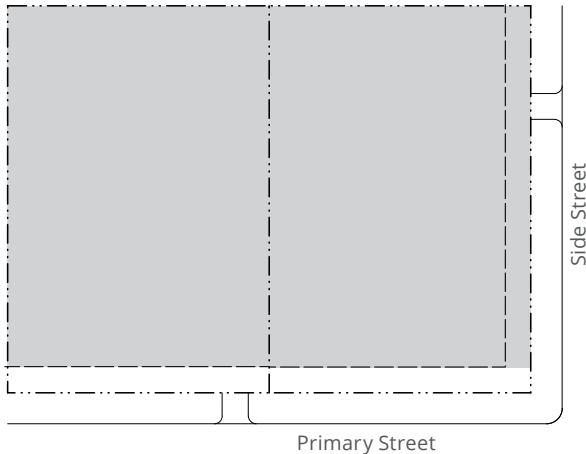
— = Not Allowed

N/R = No Requirement

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-6060(E) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	0'	3'	3'	3'

Ramps. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments). Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design.

² A maximum 3' above ground.

Table 23-4D-6060(F) Parking

(1) Parking Requirements

No required parking spaces.

See Section 23-4D-6040 (Parking Requirements) for standards.

Table 23-4D-6060(G) Frontages

(1) Ground Floor Frontage

Minimum 60% ground floor frontage must be occupied with approved active commercial or civic use as provided in Section 23-4D-9080 (Downtown Plan Overlay Zone).

Arcades or colonnades allowed if:

Part of an existing or planned block system of covered sidewalks

Structure provides clear opening to street with minimum 14' vertical clearance

Solid columns represent maximum 10% of building facade

For commercial buildings:

Entries must be oriented to the street and located at sidewalk level

No ramps or stairs allowed within public right-of-way or front setback

Table 23-4D-6060(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	95% ¹	Division 23-3D-3
Building Cover	95%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		
See Section 23-4E-4080 (Functional Green) for developments with impervious cover greater than 80%.		

¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-6060(I) Open Space**(1) Open Space Type****(a) Personal Open Space**

None required

(b) Common Open Space

None required

(c) Civic Open Space

Sites < 4 acres	None required
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

Table 23-4D-6060(J) Additional Standards**(1) Construction**

A building must achieve at least a one star rating under the Austin Green Building program, as prescribed by a rule adopted in accordance with Chapter 1-2 (Adoption of Rules).

Table 23-4D-6060(K) Additional Compatibility

See [Section 23-4D-9080](#) (Downtown Plan Overlay Zone) for standards.

(2) Height Encroachment

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

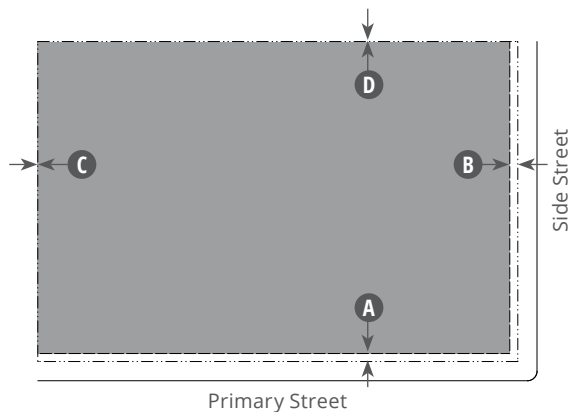
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23-4D-6070 Urban Center (UC) Zone

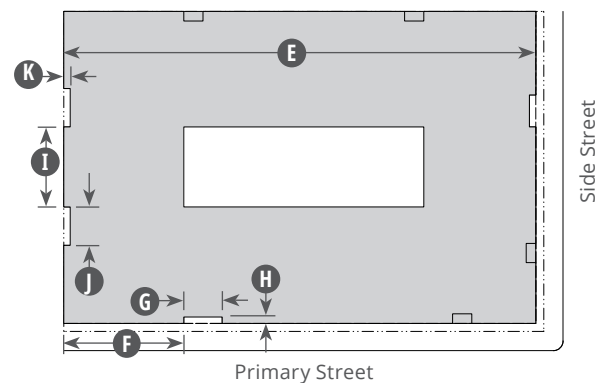
- (A) **Purpose.** Urban center (UC) zone is an urban mixed-use zone and is intended to provide regional access to employment, shopping, entertainment, and services in a highly walkable, transit-rich activity center.
- (B) **Overview.** This zone allows multi-unit residential, office, service, and a broad array of retail uses in attached mid-rise and high-rise block-scale buildings. It can be summarized as:
 - (1) eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone does not require additional setbacks triggered but may require height stepbacks by residential house-scale.
- (C) **Sub-Zones.** Urban center includes the following sub-zones:
 - (1) UC-80' (UC80);
 - (2) UC-120' (UC120);
 - (3) UC-180' (UC180); and
 - (4) UC-Unlimited.
- (D) **Ground Floor Use.** On the ground floor of a building along a primary street frontage, an allowed non-residential pedestrian oriented use is required. Lobbies to upper floor uses or lobbies to residential uses are allowed.
- (E) **Requirements.** A lot zoned commercial center shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).

Table 23-4D-6070(A) Lot Size and Intensity				
Allowed Use	Lot			
	Units per Acre (max.)	Width (min.)	Area (min.)	Tower Separation (min.)
All Allowed Uses	N/R	N/R	4,000 sf	120'

Building Placement Diagram



Building Form Diagram



Key for Diagrams

--- ROW / Lot Line
 ■ Buildable Area

--- Building Setback Line

■ Building Footprint

Table 23-4D-6070(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	5'	5'	0'	0'
Maximum	10'	10'	N/R	N/R

Where existing adjacent buildings are in front of the minimum front setback or side street setback, the building may be set to align with the facade of the front-most immediately adjacent building.

Additional setback and/or easement may be required where street right-of-way or utilities easement is required.

Table 23-4D-6070(C) Building Form

(1) Overall Building Envelope

Width (max.) 620' E

Courtyard with min. dimensions of 50' x 150' required when building length exceeds 260'

(2) Building Articulation on Additions and New Construction

Articulation is required for three facades of a building.

(3) Primary Street Facade(s), All Stories

Facade Length without Articulation (max.) 200' F

Articulation Length (min.) 24' G

Articulation Depth (min.) 4' H

(4) Other Facades, All Stories

Facade length without articulation (max.) 60' I

Articulation length (min.) 24' J

Articulation depth (min.) 4' K

(5) Net Frontage defined by Building Facade

Location	Net Frontage
Front	95% min.
Side St.	90% min.

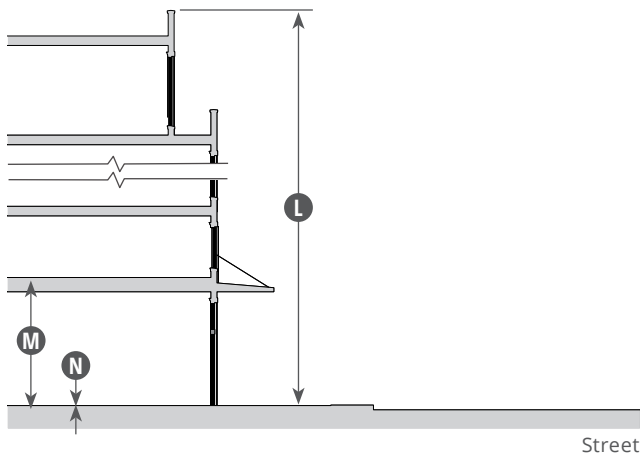
Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Building Height Diagram



Key for Diagram

--- ROW / Lot Line

⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-6070(D) Height

(1) All Buildings	Base Standard	Additional FAR with AHBP Bonus ¹
Sub-zone	Overall (max.)	
UC-80' (UC80)	80'	+70'
UC-120' (UC120)	120'	+80'
UC-180' (UC180)	180'	+60'
UC-Unlimited	Unlimited	

¹ To receive affordable housing bonus, a project must comply with Article 23-3E (Affordable Housing).

(2) Design Standards High-rise Towers

Floorplate Above 85'

Per Tower (max.)	25,000 square feet
Combined (max.)	60% of lot area

Floorplate Above 240'

One Tower (max.)	15,000 square feet
------------------	--------------------

Tower Separation (min.)

One or no floorplates > 20,000 sf each	80'
Two or more floorplates > 20,000 sf each	120'

Multiple high-rise towers may be located on a single lot provided the standards of this table are met.

(3) Accessory Structure

Overall (max.)	12'
----------------	-----

Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Table 23-4D-6070(D) Height (continued)

(1) Building Height Stepback

Stepbacks are required for portions of the building adjacent to, across an alley from, or across a right-of-way less than 60' wide from a Residential House-Scale Zone.

Distance from Lot Line of Triggering Property	Height (max.)
< 25'	18'
25'-50'	35'
50'-100'	45'
> 100'	Set by sub-zone standards

(2) Primary Building, Ground Floor

Floor-to-Ceiling Height ²	14' min.	M
--------------------------------------	----------	---

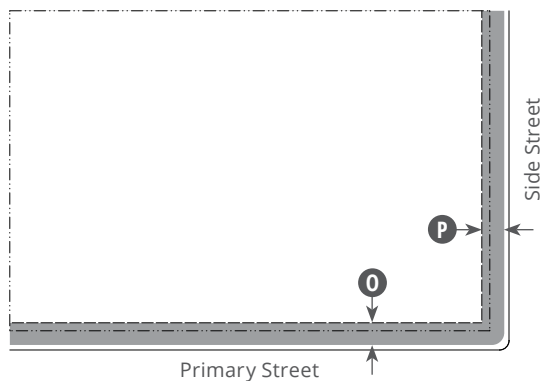
Finish Floor Height Above Curb for ground floor residential use within 10' of a street right-of-way ^{2, 3, 4} 18" N

²Buildings existing at the time of adoption of this Land Development Code and additions to those buildings are exempt.

³Primary buildings are exempt on lots where the existing grading slopes down and away from the street.

⁴Does not apply to lobbies used to access residential units or amenity areas accessible to residential units.

Encroachments Diagram



Key for Diagrams

--- ROW / Lot Line
 --- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-6070(E) Encroachments

(1) Encroachment Type	Front (max.) O	Side St. (max.) P	Side (max.) Q	Rear (max.) R
Private Frontage				
Gallery ¹	14'	14'	—	—
Architectural Features	3'	3'	—	—

Ramps. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement**.

¹ Galleries may encroach into the street right-of-way, subject to the approval of an encroachment agreement in compliance with Chapter 14-11 (Use of Right-of-Way).

(2) Height Encroachment

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards..

Table 23-4D-6070(F) Frontages

(1) Private Frontage Type	Front	Side St.	Standards
Terrace ²	—	A	23-4E-1090
Shopfront	A	A	23-4E-1110
Gallery	A	A	23-4E-1120
Stoop ³	—	A	23-4E-1080
Dooryard ³	—	A	23-4E-1070

Loading docks, overhead doors, and other service entries must be screened and not be located on primary street facades.

² Allowed only when necessary to accommodate grade change.

³ Allowed only when used to access residential use.

(2) Pedestrian Access

Pedestrian entrances must be provided at least every 50' along ground floor street facade and side street facade.

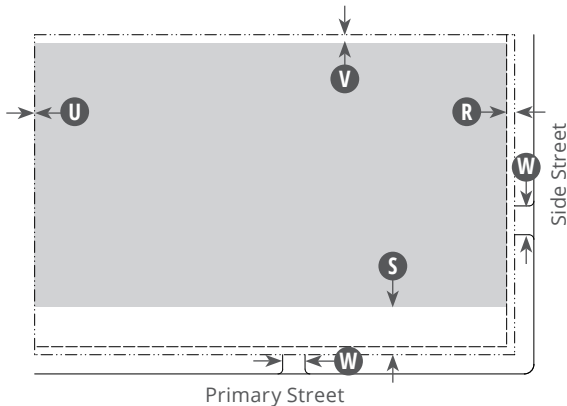
Key for Tables

A = Allowed

— = Not Allowed

N/R = No Requirement

Parking Diagram



Key for Diagrams

--- ROW / Lot Line

--- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-6070(G) Parking

Parking Requirements

No required parking spaces.

See Section 23-4D-6040 (Parking Requirements) for standards.

(1) Setback (min.)	Front S	Side St. T	Side U	Rear V
At-Grade	50'	5'	0'	0'
Above-Grade	0' ¹	0'	0'	0'
Below-Grade	5'	5'	0'	0'

Parking structures may be exposed to a Side Street for a length of 120' max. so long as the parking structure facade maintains a pattern of fenestration that is consistent with the primary building.

¹ Buildings less than 150' in length are exempt from upper floor front parking setbacks.

(2) Parking Driveway

Width 25' max. W

Driveways may be shared between adjacent parcels.

When lot has adjacent alley with a right-of-way width of 20' or greater, parking must be accessed only from the alley.

Table 23-4D-6070(H) Impervious Cover

(1) Impervious Cover % (max.) Standards

Impervious Cover	95% ²	23-3D-3
Building Cover	90%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

See Section 23-4E-4080 (Functional Green) for additional standards for projects with impervious cover greater than 80%.

²The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-6070(I) Open Space

(1) Open Space Type Width (min.) Depth (min.) Percentage (min.)

Common	20'	20'	5% gross site area
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23-4D-6080 Downtown Core (DC) Zone

#17, 18

- (A) **Purpose.** Downtown core (DC) zone is the most urban mixed use zone and is intended to **implement Downtown Area Plan** and provide regional access to employment, shopping, entertainment, and services in Downtown Austin.
- (B) **Overview.** This zone allows multi-unit residential, office, service, and a broad array of retail uses in attached mid-rise and high-rise block scale buildings. It can be summarized as:
- (1) eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone does not require additional setbacks or height setbacks.
- (C) **Requirements.** A lot zoned downtown core shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover);
 - (9) Table (I) (Open Space);
 - (10) Table (J) (Additional Standards); and
 - (11) Table (K) (Additional Compatibility).

DC

23-4D-6080: Downtown Core (DC) Zone

PC Motion #17

Increase the base entitlements in DC per DAA recommendation, including:

- Increase driveway width maximum to 30' to allow for 3 lanes of traffic flow
- Frontage Requirements: Create exception for <1/2 block sites. Either significantly reduce the % gross frontage requirement or change requirement to "net" frontage or only require one block face of the site to comply. Or remove requirement in DC base zone and allow for a district planning process to dictate which streets and which uses are appropriate. And reduce requirements for many building support spaces (AE vault, fire pump, etc.) that must be located directly on ROW. The definition of active commercial uses (Commercial Group A in the Downtown Plan Overlay Zone) needs to be clarified or refined to allow for ground level office or multi-family lobbies. Additionally, revise the requirement that prohibits stairs/ramps in required setbacks to allow them in required setbacks.
- (intent) Recalibrate the Downtown Density Program to maximize the yield of affordable housing units in a way that does not impede taking up of the bonus, particularly related to small lots
- FAR and height for the PID area, not including Judge's Hill, be increased to unlimited for the Density Bonus Program

PC Motion #18

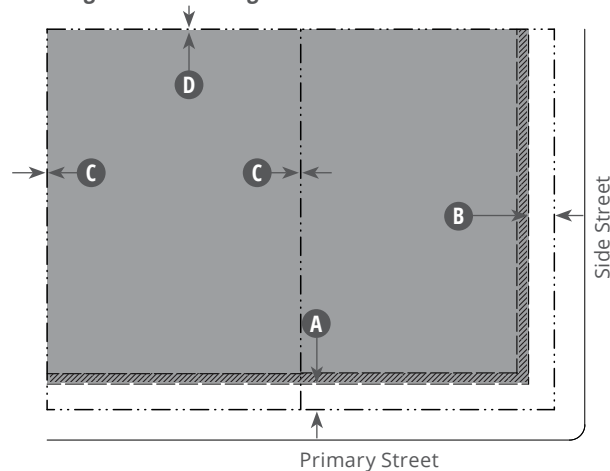
Change DC zone FAR max to 12:1.

Table 23-4D-6080(A) Lot Size and Intensity			
Lot Size			
Minimum	N/R		
Lot Width			
Minimum	N/R		
Intensity	Dwelling Units per Acre	FAR (max.) ¹	Additional FAR with Bonus
DC Zone	N/R	8.0	See Division 23-3E-2 (Downtown Density Bonus Program)

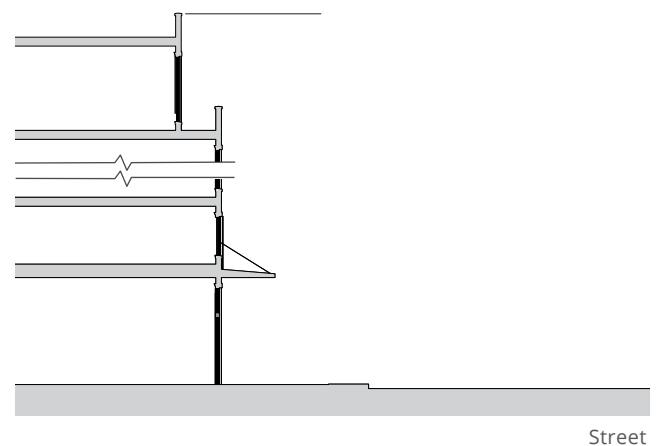
¹ The following are exempt from FAR calculations:

- Retail and restaurant uses on the ground floor along MLK Blvd, 12th Street west of West Avenue and 15th Street east of Rio Grande street
- Retail and restaurant uses on the ground floor on Pedestrian Activity streets in the Waterfront District
- Live music venues and other cultural uses in the Red River District, approved by the Planning Director

Building Placement Diagram



Building Height Diagram



Key for Diagrams

- ROW / Lot Line
--- Building Setback Line

- Buildable Area ■ Facade Zone
~ Max. number of allowed stories may exceed diagram

Table 23-4D-6080(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
--	------------	---------------	-----------	-----------

Maximum ¹ 10' ² 10' ² — —

Additional setback and/or easement may be required where street right-of-way or utilities easement is required.

¹The requirements in Section 23-4D-9080 (Downtown Plan Overlay Zone) for additional setback standards supersede in the event of conflict.

²Maximum setback for the first four stories above ground level only. Does not apply to the portion of a building adjacent to a plaza or a protected tree.

Table 23-4D-6080(C) Building Form

(1) Net Frontage defined by Building Facade

Location	Net Frontage
Front ³	75% min.
Side St. ³	75% min.

³See exemptions in Subsection 23-4D-6050 (B)(1). Where there is not enough building frontage to meet the standards, an active private frontage is required in compliance with Section 23-4D-6050(B)(2). If the building provides publicly accessible common open space consistent with Section 23-4C-1030 (Common Open Space), additional setback is allowed subject to approval by the Development Services Director.

Table 23-4D-6080(D) Height

(1) Building Height Stepback

In addition to the requirements set forth in the preservation plan established in Section 23-4D-9100 (Historic Landmark and Historic District Overlay Zones), rooftop additions to historic structures in the East 6th Street National Register Historic District or on Congress Avenue must be stepped back 15' from the front facade.

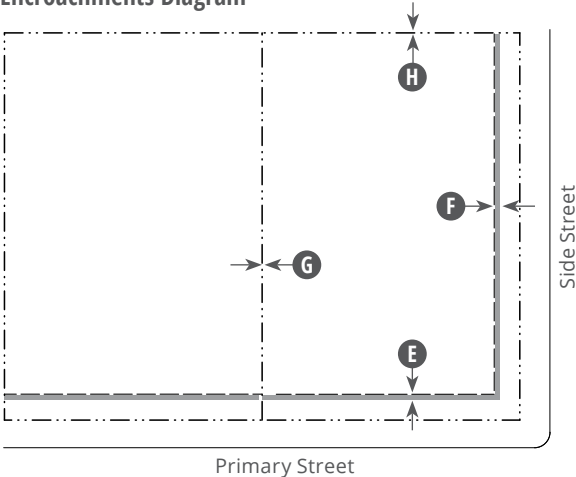
Key for Tables

A = Allowed

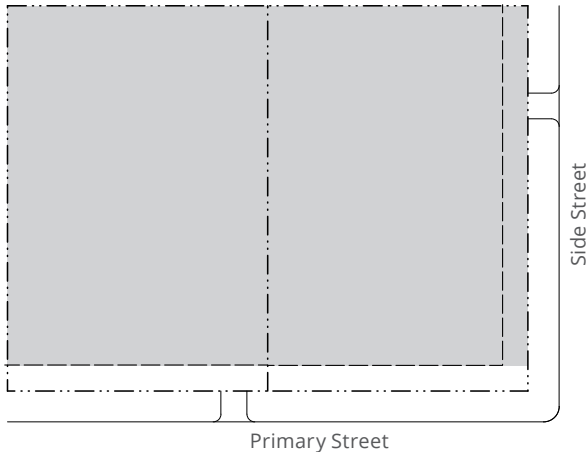
— = Not Allowed

N/R = No Requirement

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment ■ Parking Area

Table 23-4D-6080(E) Encroachments

(1) Encroachment Type	Front (max.) E	Side St. (max.) F	Side (max.) G	Rear (max.) H
-----------------------	-----------------------------	--------------------------------	----------------------------	----------------------------

Architectural Features ¹ 2' 2' 2' 2'

Ramps. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design.

² A maximum 3' above ground.

(2) Height Encroachment

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-6080(F) Parking

(1) Parking Requirements

No required parking spaces.

See Subsection 23-4D-6040(D) (Parking Location Standards) for parking location standards.

Table 23-4D-6080(G) Frontages

(1) Ground Floor Frontage

Minimum 60% ground floor frontage must be occupied with approved active commercial or civic use as provided in **Section 23-4D-9080** (Downtown Plan Overlay Zone).

(2) Frontage Types

Arcades, **galleries**, or colonnades allowed if:

- Part of an existing or planned block system of covered sidewalks
- Structure provides clear opening to street with minimum 14' vertical clearance
- Solid columns represent maximum 10% of building facade

For commercial buildings

- Entries must be oriented to the street and located at sidewalk level
- No ramps or stairs allowed within public right-of-way or front setback

Table 23-4D-6080(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	100% ¹	23-3D-3
Building Cover	100%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		
See Section 23-4E-4080 (Functional Green) for developments with impervious cover greater than 80%.		

¹ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-6080(I) Open Space

(1) Open Space Type	
(a) Personal Open Space	
None required	
(b) Common Open Space	
None required	
(c) Civic Open Space	
Sites < 4 acres	None required
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

Table 23-4D-6080(J) Additional Standards**(1) Construction**

A building must achieve at least a one star rating under the Austin Green Building program, as prescribed by a rule adopted in accordance with Chapter 1-2 (Adoption of Rules).

Table 23-4D-6080(K) Additional Compatibility

See [Section 23-4D-9080](#) (Downtown Plan Overlay Zone) for standards.

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Division 23-4D-7: Commercial and Industrial Zones

Contents

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23-4D-7010 Purpose

This division establishes the land use and building form requirements within commercial and industrial zones. The requirements implement the Comprehensive Plan and are intended to ensure that proposed development is compatible with existing development; and to produce an environment of desirable character that is consistent with the Comprehensive Plan and any other applicable area plan.

23-4D-7020 Applicability

- (A) The requirements in this division apply to a lot zoned within the commercial and industrial zones.
- (B) The uses allowed in commercial and industrial zones are subject to the requirements of this division and applicable regulations within Article 23-4E (Supplemental to Zones).
- (C) In addition to the requirements included in this division and Article 23-4E (Supplemental to Zones), a lot or use may also be subject to the following provisions in this Title:
 - (1) Article 23-3C (Urban Forest Protection and Replenishment);
 - (2) Article 23-3D (Water Quality);
 - (3) Article 23-3E (Affordable Housing);
 - (4) Division 23-4E-2 (Outdoor Lighting);
 - (5) Division 23-4E-7 (Additional General Standards);
 - (6) Section 23-4E-8060 (Building Design);
 - (7) Chapter 23-8 (Signs); and
 - (8) Article 23-10E (Drainage).

- (D) The provisions identified in Subsection (C) may not be an exhaustive list of requirements that apply to a lot or use. Failure to include a specific provision in Subsection (C) or anywhere else in this division does not exempt the lot or use from complying with the provision.

23-4D-7030 Allowed Land Uses and Permit Requirements

(A) Allowed Land Uses.

- (1) Table (A) (Allowed Uses in Commercial and Industrial Zones) establishes the land uses that are allowed in each commercial and industrial zone.
 - (2) Each land use listed is defined in Article 23-2M (Definitions and Measurements).
- (B) If the table identifies a permit requirement for the land use, then the property may not be used in that manner until the property owner or property operator obtains a permit.
- (C) If a land use is subject to additional requirements, the table identifies the section within Division 23-4E-6 (Specific to Use) that applies.
- (D) If a land use is marked "N/A" or is not included in the table, it is not allowed.

Table 23-4D-7030(A) Allowed Uses in Commercial and Industrial Zones

Use Type	Specific to Use Requirements	CR	CW	IF	IG	IH	RD
(1) Residential							
Accessory Dwelling Unit - Commercial	23-4E-6040	P	P	P	—	—	—
Bed and Breakfast	23-4E-6090	P	P	—	—	—	—
Cooperative Housing		—	—	MUP	—	—	—
Duplex	23-4E-6170	—	—	—	—	—	—
Group Residential		—	—	MUP	—	—	—
Multi-Family	23-4E-6250	—	—	MUP	—	—	—
Senior/Retirement Housing							
≤12	23-4E-6330	—	—	MUP	—	—	—
>12	23-4E-6330	—	—	MUP	—	—	—
Work/Live	23-4E-6380	—	P	P	CUP	—	—
(2) Residential Support							
Emergency Shelter		—	P	P	—	—	—
Residential Care Facility		—	P	P	—	—	—

Key for Table 23-4D-7030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-7030(A) Allowed Uses in Commercial and Industrial Zones (continued)

Use Type	Specific to Use Requirements	CR	CW	IF	IG	IH	RD
Transitional and Supportive Housing		—	—	P	CUP	—	—
(3) Services							
Animal Service/Boarding							
Level 1		—	MUP	P	—	—	—
Level 2		—	MUP	P	—	—	—
Level 3		—	MUP	P	P	—	—
Business and Financial/Professional Services		—	P	P	—	—	—
Commercial Services and Repair							
No Outside Storage		—	P	P	P	CUP	P
w/ Incidental Outside Storage		—	P	P	P	—	P
Day Care							
Small <7		—	P	—	—	—	P
Large 7 ≥ and ≤20		—	P	—	—	—	—
Commercial		CUP	P	—	—	—	—
Drive Through, Retail, or Service Facility	23-4E-6160	—	—	—	—	—	P
Funeral/Mortuary Home		—	—	P	P	P	P
Hotel/Motel		CUP	P	—	—	—	—
Medical Services							
<2,500 sf		—	P	—	—	—	—
>2,500 sf		—	P	—	—	—	—
Pawn Shops		—	P	P	—	—	—
Personal Services							
Non-restricted		P	P	P	—	—	—
Restricted		—	P	P	CUP	—	—
Personal Storage		—	P	P	P	—	P

Key for Table 23-4D-7030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-7030(A) Allowed Uses in Commercial and Industrial Zones (continued)							
Use Type	Specific to Use Requirements	CR	CW	IF	IG	IH	RD
(4) Office							
Office, General (non-medical)		—	P	P	P	P	P
(5) Civic and Public Assembly							
Detention Facility		—	CUP	CUP	CUP	—	—
Government		—	P	P	—	—	P
Library, Museum, or Public Art Gallery		P	P	P	—	—	P
Meeting Facility (public or private)		P	P	P	—	—	P
Public Safety Facility		—	P	P	P	P	P
Religious Assembly Facility		P	P	P	P	P	P
School							
Business, or Trade	23-4E-6320	—	MUP	P	—	—	P
College or University	23-4E-6320	CUP	P	P	—	—	—
Private Primary	23-4E-6320	CUP	P	P	—	—	—
Private Secondary	23-4E-6320	CUP	P	P	—	—	—
Public Primary	23-4E-6320	CUP	P	P	—	—	—
Public Secondary	23-4E-6320	CUP	P	P	P	—	—
(6) Restaurant and Bars							
Micro-Brewery/Micro-Distillery/Winery		P	P	P	P	—	P
Mobile Food Sales	23-4E-6230	P	P	P	—	—	P
Restaurant							
w/o Alcohol Sales		—	P	P	—	—	P
w/ Alcohol Sales	23-4E-6310	P	P	P	—	—	P
Drive Through	23-4E-6160	—	P	P	—	—	P
Late Night Operation	23-4E-6310	—	P	P	—	—	P

Key for Table 23-4D-7030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-7030(A) Allowed Uses in Commercial and Industrial Zones (continued)

Use Type	Specific to Use Requirements	CR	CW	IF	IG	IH	RD
(7) Retail							
Alcohol Sales	23-4E-6070	—	P	P	CUP	—	P
Commercial Food Preparation		—	P	P	P	P	P
Food Sales		—	P	P	P	—	P
General Retail							
≤ 5,000 sq ft		—	P	P	—	—	P
>5,000 and ≤10,000 sf		—	P	P	P	—	P
> 10,000 and ≤ 100,000 sf		—	P	P	CUP	—	P
> 100,000 sf		—	CUP	CUP	CUP	—	CUP
w/ Onsite Production		P	P	P	P	—	P
w/ Outside Storage	23-4E-6190	—	MUP	P	P	—	P
Mobile Retail Sales	23-4E-6240	P	P	P	P	P	P
(8) Entertainment and Recreation							
Adult Entertainment	23-4E-6060	—	—	P/CUP	P/CUP	P/CUP	—
Recreational Vehicle Park	23-4E-6280	MUP	P	P	—	—	—
Performance Venue/Theater	23-4E-6260						
Indoor	23-4E-6260						
≤2,500 sf	23-4E-6260	MUP	P	P	—	—	—
2,500-10,000 sf	23-4E-6260	CUP	P	P	—	—	—
> 10,000 sf	23-4E-6260	—	P	MUP	—	—	—
Outdoor	23-4E-6260						
≤ 2,500 sf	23-4E-6260	MUP	P	MUP	—	—	—
2,500-10,000 sf	23-4E-6260	CUP	P	MUP	—	—	—
> 10,000 sf	23-4E-6260	—	P	CUP	—	—	—
Marina		P	—	—	—	—	—
Recreation							
Indoor ≤ 5,000 sf	23-4E-6290	MUP	P	P	P	P	P
Indoor > 5,000 sf	23-4E-6290	CUP	P	P	P	P	P
Outdoor, Formal	23-4E-6290	P	P	P	—	—	—
Outdoor, Informal	23-4E-6290	P	P	P	—	—	—
Outdoor, Natural	23-4E-6290	P	P	—	—	—	—
Spectator Sport or Entertainment		MUP	P	CUP	—	—	—

Key for Table 23-4D-7030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-7030(A) Allowed Uses in Commercial and Industrial Zones (continued)							
Use Type	Specific to Use Requirements	CR	CW	IF	IG	IH	RD
Studio: art, dance, martial arts, music	23-4E-6370	—	P	P	—	—	—
(9) Industrial							
Agricultural Industry		—	—	—	—	P	—
Manufacturing and Storage							
Light	23-4E-6220	—	P	P	P	P	P
General	23-4E-6220	—	CUP	CUP	P	P	P
Restricted	23-4E-6220	—	—	-	CUP	P	CUP
Mining and Resource Extraction		—	—	-	CUP	P	—
Recycling Center							
Collection and Transfer	23-4E-6290	—	P	P	P	P	P
Drop-off and Reuse	23-4E-6290	—	—	CUP	P	P	P
Storage and Processing	23-4E-6290	—	—	CUP	P	P	P
Salvage/Junk Yard		—	—	-	CUP	P	—
(10) Agriculture							
Community Agriculture	23-4E-6120	P	P	P	P	P	P
Indoor Crop Production		—	CUP	P	P	P	P
(11) Automobile Related							
Automobile Sales, Rental, and Storage		—	P	P	P	P	—
Automobile Repair		—	CUP	P	P	P	—
Commercial Vehicle Storage and Dispatch		—	P	P	P	P	—
Gas Station	23-4E-6180	CUP	P	P	P	P	—
Heavy Equipment Sales							
Sales, Rental, and Storage		—	P	P	P	P	—
Repair		—	CUP	P	P	P	—
Parking Facility		—	P	P	P	P	—
Recreational and Sports Vehicle Sales, Rental, and Storage		P	P	P	—	—	—
(12) Innovation and Technology							
Research and Development							
Non-restricted	23-4E-6300	—	P	P	P	P	P
Restricted	23-4E-6300	—	—	—	CUP	P	CUP

Key for Table 23-4D-7030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

Table 23-4D-7030(A) Allowed Uses in Commercial and Industrial Zones (continued)

Use Type	Specific to Use Requirements	CR	CW	IF	IG	IH	RD
(13) Other							
Accessory Uses	23-4E-6050	P	P	P	P	P	P
Communications	23-4E-6110	CUP	P	P	P	P	P
Helicopter and Non-fixed Wing Aircraft Facilities		CUP	CUP	CUP	CUP	CUP	CUP
Utilities							
Local		P	P	P	P	P	P
Major		—	—	—	—	P	—
Telecommunications	23-4E-6370	P	P	P	P	P	P
Temporary Uses	23-4B-1050	TUP	TUP	TUP	TUP	TUP	TUP
Transportation Facilities		—	—	CUP	CUP	CUP	CUP
Transit Terminal		—	—	CUP	CUP	CUP	CUP
Special Uses	23-4E-6350	CUP	—	—	—	—	—

Key for Table 23-4D-7030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required	P/CUP	Permitted Use or Conditional Use Permit Required. See Division 23-4E-6 (Specific to Use).

23-4D-7040 Parking Requirements

- (A) **Parking Required.** Required off street parking in the Commercial and Industrial Zones is provided in Table 23-4D-7040(A) (Parking Standards for Commercial and Industrial Zones).
- (B) **Parking Reductions.** See Section 23-4E-3060 (Off-street Motor Vehicle Parking Adjustments) for standards for parking adjustment from Table A (Parking Standards for Commercial and Industrial Zones).
- (C) **Maximum Number of Parking Spaces.** Developments over 10,000 square feet in floor area or containing 25 or more residential units shall not exceed the double the minimum number of parking spaces required. Maximum is calculated before any applicable parking reductions. Maximum does not apply to zones or land uses that require no off-street parking.
- (D) **Exceptions to Off-Street Parking Location Standards for Commercial Warehouse and Industrial Flex zones.** For sites 400 feet deep or less, off-street parking may be located between the building frontage and the property line if:
 - (1) At least 60 percent of the property's net frontage length is built up to the lot line;
 - (2) A landscaped buffer is provided between the sidewalk and parking area; and
 - (3) There is a public sidewalk that crosses the parking area providing direct pedestrian access to the building entrance visible from the property line.

Table 23-4D-7040(A) Parking Standards for Commercial and Industrial Zones

Use Type

(1) Residential

Accessory Dwelling Unit - Commercial	none required
Bed and Breakfast	1 plus 0.8 per bedroom
Cooperative Housing	1 plus 1 per every 4 bedrooms
Group Residential	1 plus 1 per every 3 bedrooms
Senior/ Retirement Housing	0.8 per unit
Other allowed residential uses	1 per unit

(2) Residential Support

Emergency Shelter	As determined by the Director
Residential Care Facility	0.8 per bedroom
Transitional and Supportive Housing	1 plus 1 per every 4 bedrooms

(3) Services

Drive Through, Retail, or Service Facility	None required
Funeral/Mortuary Home	1 space per each 5 persons capacity
Hotel/Motel	1 per every 2 bedrooms, plus 1 per 500 sf of meeting space
Medical Services	1 per 350 sf
Personal Storage	1 per 1,000 sf
Other allowed service uses	1 per 500 sf

(4) Office

Office, General (non-medical)	1 per 500 sf
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Table 23-4D-7040(A) Parking Standards for Commercial and Industrial Zones

Use Type

(5) Civic and Public Assembly

Library, Museum, or Public Art Gallery 1 per 500 sf

Meeting Facility (public or private) 1 per 500 sf

School

Business, or Trade 1 space per staff member, plus 1 space for every 4 students

College or University 1 space per staff member, plus 1 space for every 4 students

Private Primary 1 space per staff member

Private Secondary 1 space per staff member, plus 1 space for every 4 students enrolled in grades 11 and 12

Public Primary 1 space per staff member

Public Secondary 1 space per staff member, plus 1 space for every 4 students enrolled in grades 11 and 12

Other allowed civic and public assembly As determined by the Director

(6) Restaurant and Bars

Micro-Brewery/Micro-Distillery/Winery 1 per 150 sf of tasting area, plus 1 per 1,000 sf of production area

Restaurant

First 2,500 sf of area 1 per 150 sf

For each square foot greater than 2,500 sf 1 per 125 sf

For restaurants that provide no customer service or dining area 1 per 325 sf

Drive Through None required

(7) Retail

Commercial Food Preparation 1 per 1,000 sf

Food Sales 1 per 350 sf

Mobile Retail None required

Other allowed retail uses 1 per 500 sf

(8) Entertainment and Recreation

Adult Entertainment 1 per 500 sf

Recreational Vehicle Park 1 plus 1 per camping site

Studio: art, dance, martial arts, music 1 per 500 sf

Other allowed entertainment and recreation uses As determined by the Director

Table Continues on Next Page ———→

Table 23-4D-7040(A) Parking Standards for Commercial and Industrial Zones

Use Type

(9) Industrial

Manufacturing and Storage

Light 1 per 1,000 sf of manufacturing, warehouse plus 1 per 250 sf of office or business area

General As determined by the Director

Restricted As determined by the Director

Other allowed industrial uses As determined by the Director

(10) Agriculture

All allowed agriculture uses As determined by the Director

(11) Automobile Related

Automobile Sales, Rental, and Storage 1 per 500 sf indoor sales floor, 1 per 750 sf outdoor sales lot

Automobile Repair 4 per service bay, plus 1 per 350 sf office space

Commercial Vehicle Storage and Dispatch 1 per 350 sf office/dispatch space

Gas Station 1 per each 2 fueling bays plus 2 queue spaces per each fueling bay

Heavy Equipment Sales

Sales, Rental, and Storage 1 per 1,000 sf plus 1 per 250 sf of office or business area

Repair 1 per 1,000 sf plus 1 per 250 sf of office or business area

Parking Facility None required

Recreational and Sports Vehicle Sales, Rental, and Storage 1 per 500 sf indoor sales floor, 1 per 750 sf outdoor sales lot

(12) Innovation and Technology

Research and Development

Non-restricted 1 space for each 275 sq. ft.

Restricted 1 space for each 275 sq. ft.

(13) Other

All allowed other uses As determined by the Director

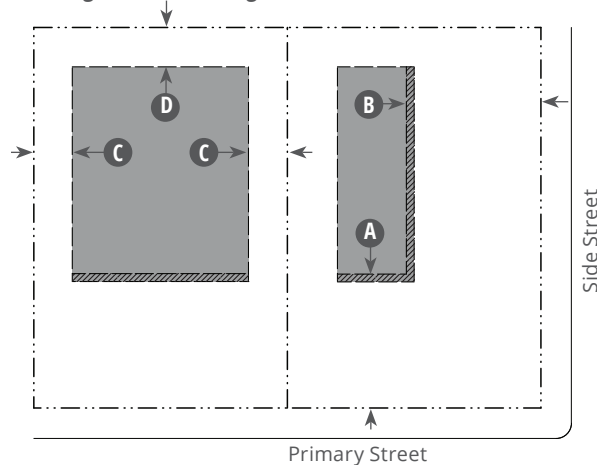
23-4D-7050 Commercial Recreation (CR) Zone

- (A) **Purpose.** Commercial recreation (CR) zone is intended to provide local and regional access to major recreational areas.
- (B) **Overview.** This zone allows recreation uses. It can be summarized as:
 - (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks or height stepbacks triggered by Residential House-Scale.
- (C) **Requirements.** A lot zoned commercial recreation shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking);
 - (6) Table (F) (Impervious Cover); and
 - (7) Table (G) (Open Space).

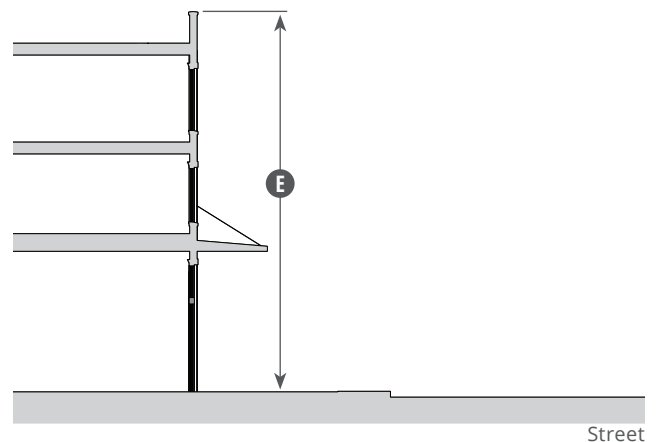
A large, semi-circular red graphic on the right side of the page. Inside the red shape, the letters 'CR' are written in a large, white, stylized font.

Table 23-4D-7050(A) Lot Size and Intensity		
Lot Size	Area	Width
Minimum	—	—
Intensity	Base Standard	
Dwelling Units per Acre (max.)	—	
FAR (max.)	0.25	

Building Placement Diagram



Building Height Diagram



Key for Diagrams

- ROW / Lot Line
 --- Building Setback Line

- Buildable Area
 ▨ Facade Zone

Table 23-4D-7050(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	50'	50'	20'	20'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Front A	Side St. B	Side C	Rear D
Lots ≤ 75' wide	50'	50'	20'	30'
Lots > 75' wide	50'	50'	20'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-7050(C) Height

(1) All Buildings	
Overall (max.)	40' E

(2) Compatibility Height Stepback

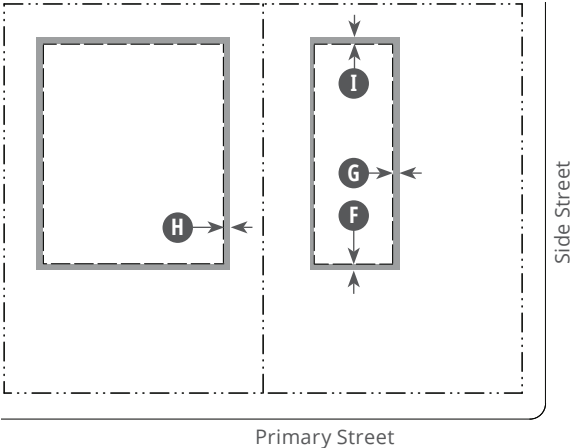
(a) Building height setbacks are required where a portion of a building is located:

- (i) across an alley less than 20 feet in width, from a property zoned Residential House-Scale;
- (ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or
- (ii) adjacent to a property zoned Residential House-Scale.

(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).

(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:
≤ 50'	35'
> 50'	Set by zone standards

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-7050(D) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	3'	3'	3'
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' min. above ground.

(2) Height Encroachment

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-7050(E) Parking

(1) Parking Requirements

See Section 23-4D-7040 (Parking Requirements) for standards.

Table 23-4D-7050(F) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	60% ³	23-3D-3
Building Cover	25%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		

³The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-7050(G) Open Space

(1) Open Space Type	Area (min.)
Personal Open Space	None required
Common Open Space	5% gross site area ⁴
Civic Open Space	
Sites < 4 acres	none required
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

⁴For Non-residential sites 2 acres or larger and all multi-family developments of 10 units or more, see Section 23-4C-1030 (Common Open Space). Otherwise none required

- (D) **Property near Lake Austin.** This Subsection applies to property located within 1,000 feet horizontally of the shoreline of Lake Austin.
- (1) The areas within 75 feet of the shoreline are excluded from impervious cover calculations.
 - (2) Development is prohibited on land with a gradient that exceeds 35 percent. This prohibition does not apply to a pedestrian facility or a fence, driveway, road, or utility that cannot be reasonably placed elsewhere.
 - (3) Impervious cover must not exceed:
 - (a) 20 percent on a slope with a gradient of 25 percent or less;
 - (b) 10 percent on a slope with a gradient of more than 25 percent and less than 35 percent; or
 - (c) 30 percent if impervious cover is transferred under Subsections (B)(4)-(6).
 - (4) Impervious cover may be transferred only:
 - (a) Between tracts within a CR Zone; and
 - (b) From land with a gradient of 35 percent or less, to land with a gradient of 15 percent or less.
 - (5) Land from which impervious cover is transferred may not be developed. The land must either remain undisturbed or be restored to a natural state.
 - (6) A transfer of impervious cover must be documented in a form approved by the City Attorney and is recorded in the county deed records.
- (E) **Improvements Prohibited.** A permanent improvement is prohibited within 75 feet of the shoreline of Lake Austin or Lake Travis, except for a bulkhead, retaining wall, pier, wharf, boathouse, non-mechanized pedestrian access facility, or marina constructed and maintained in compliance with applicable standards of this Title.
- (F) Outdoor storage of merchandise, material, or equipment is permitted if:
- (a) The outdoor storage is incidental to a use located on the premises;
 - (b) The storage area is located on the rear 50 percent of the site;
 - (c) The storage area does not exceed:
 - (i) 20 percent of the site; or
 - (ii) 50 percent of the site for a marina use, recreational equipment sales use, or recreational equipment maintenance and storage use; and
 - (d) The storage area is screened in compliance with the Environmental Criteria Manual and, except for watercraft, the stored items do not exceed the height of the screen.

- (G) The following merchandise may be displayed outdoors, except if located adjacent to a residential use:
 - (1) Artwork or pottery;
 - (2) Flowers or plants;
 - (3) Food products;
 - (4) Handcrafted goods; and
 - (5) Recreational equipment, including:
 - (a) Bicycles;
 - (b) Roller skates;
 - (c) Skateboards;
 - (d) Windsurf boards; and
 - (e) Watercraft.
- (H) Merchandise other than that described in Subsection (D) may be displayed outdoors during business hours if screened from view off-premises.
- (I) At least 40 percent of a site, excluding dedicated right-of-way, must be left in a natural state. Up to 25 percent of a natural area may be used as a sewage disposal field. A natural critical area identified in the Comprehensive Plan must be left in a natural state.
- (J) Landscaped areas at least 10 feet wide are required adjacent to public streets and Residential Zones. Landscaped areas must contain trees, shrubs, and ground cover, installed in compliance with the provisions of Division 23-4E-4 (Landscape).
- (K) Medians at least five feet wide are required between rows of parking spaces. Each median must contain either existing native trees or densely massed installed trees.
- (L) The noise level of live music may not exceed 70 decibels, measured at the property line.

23-4D-7060 Commercial Warehouse (CW) Zone

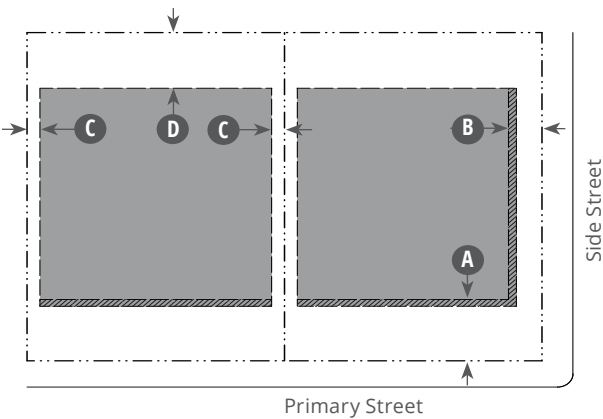
- (A) **Purpose.** Commercial warehouse (CW) zone is intended to allow office and warehouse space for business that does not require highly visible locations or generate substantial volumes of heavy truck traffic or vehicular trips, but which are not necessarily compatible with residential zones unless buffered.
- (B) **Overview.** This zone allows office and service uses. It can be summarized as:
- (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks triggered by Residential House-Scale but does not require height stepbacks.
- (C) **Requirements.** A lot zoned commercial warehouse shall comply with the requirements of this subsection, which are established in the following tables:
- (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Frontages);
 - (7) Table (G) (Parking);
 - (8) Table (H) (Impervious Cover);
 - (9) Table (I) (Open Space); and
 - (10) Table (J) (Additional Compatibility).



CW

Table 23-4D-7060(A) Lot Size and Intensity		
Lot Size	Area	Width
Minimum	10,000 sf	100'
Intensity	Base Standard	
Dwelling Units per Acre (max.)	36	
FAR (max.)	0.5	

Building Placement Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

- Buildable Area
- ▨ Facade Zone

Table 23-4D-7060(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25'	25'	5'	25'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 75' wide	25'	25'	15' ¹	30' ¹
Lots > 75' wide	25'	25'	20' ¹	30' ¹

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

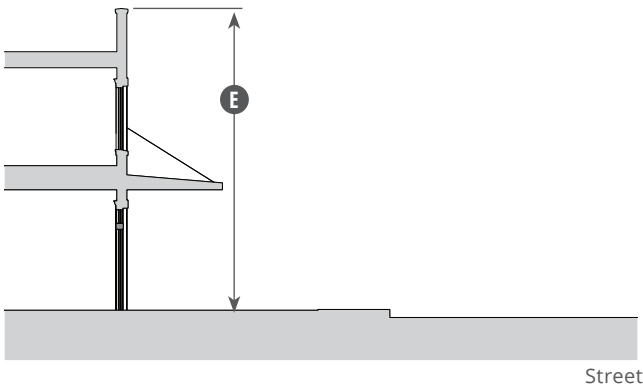
Table 23-4D-7060(C) Building Form

(1) Net Frontage defined by Building Facade	
Location	Net Frontage
Front ²	40% min.
Side St. ²	40% min.

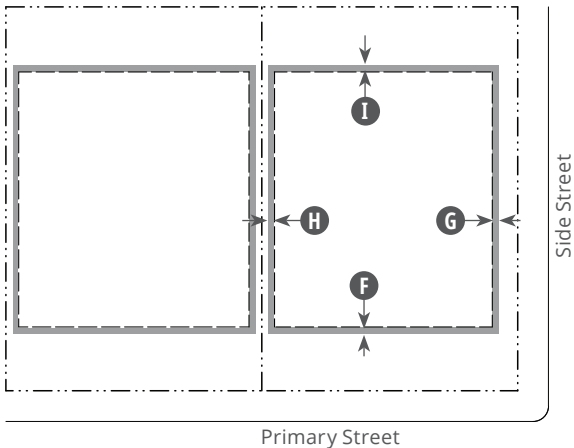
²Where there is not enough building frontage to meet the standards, an active private frontage is required in compliance with Subsection (G).

See exemptions in Subsection 23-4D-4050 (B)(1) for additional standards.

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Encroachment

Table 23-4D-7060(D) Height

(1) All Buildings

Overall (max.) 25' ³ **E**

³Maximum height of 35' with Land Use Commission approval of a Conditional Use Permit.

Table 23-4D-7060(E) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
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Architectural Features ¹ 2' 2' 2' 2'

Porch, Stoop, or Uncovered Steps ² 8' 3' 3' 3'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

(2) Height Encroachment

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-7060(F) Frontages

(1) Active Private Frontage

The portion of a building façade designated for active private frontage may be setback a maximum 20' from the setback line. Maximum 30% of active private frontage may be set back up to 30'.

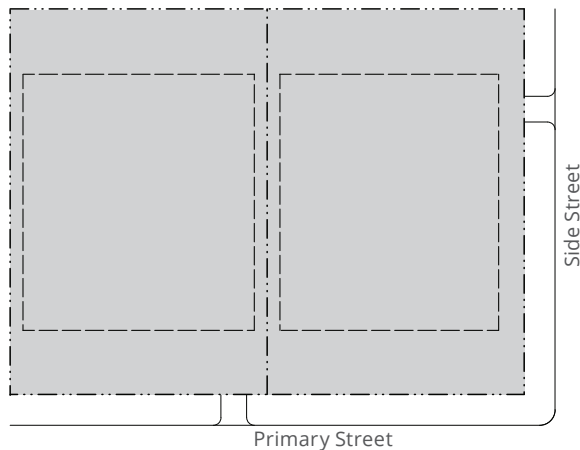
See Subsection 23-4D-4050 (B)(3) for required amenities.

(2) Pedestrian Access

Pedestrian entrance must face and connect directly to the primary street.

Pedestrian entrances must be provided at least every 75' along the elevation facing the primary street.

See exemptions in Subsection 23-4D-4050 (B)(2).

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-7060(G) Parking**(1) Parking Requirements**

See Section 23-4D-7040 (Parking Requirements) for standards.

(2) Off-Street Parking Location Standards

Prohibited between the front property line and the portion of the building facade that satisfies the building placement requirements of Subsection (D).

Allowed between building and side property line, with screening in compliance with Division 23-4E-3 (Parking and Loading).

For sites $\leq 400'$ see Subsection 23-4D-7040 (B).

(3) Parking Location Standards - Corner Sites

Surface parking prohibited within rectangular area formed by the setback lines - measured 100' back from curb line corners (or the intersection of curb line tangents), unless:

A landscaped buffer is provided between sidewalk and parking area in compliance with Division 23-4E-4 (Landscape); and

100% of building frontage facing the primary street is built to the property line.

Table 23-4D-7060(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	70% ¹	23-3D-3
Building Cover	50%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

¹The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-7060(I) Open Space

(1) Open Space Type	Size (min.)
Personal Open Space	None required
Common Open Space	5% gross site area ²
Civic Open Space	
Sites < 4 acres	None required
Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

² For Non-residential sites 2 acres or larger and all multi-family developments of 10 units or more, see Section 23-4C-1030 (Common Open Space). Otherwise none required

Table 23-4D-7060(J) Additional Compatibility

A truck loading dock may not be located on the same building face as an office entrance.

An office use must face the street that provides primary access.

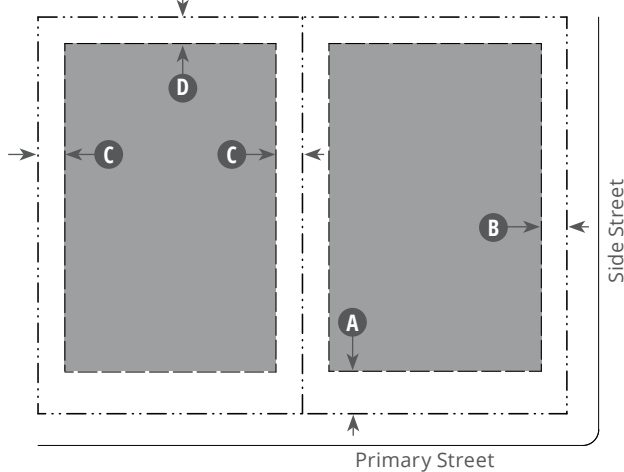
A construction sales and service use must not exceed 10,000 sf of gross floor area.

23-4D-7070 Industrial Flex (IF) Zone

- (A) **Purpose.** Industrial flex (IF) zone is intended to be a less intense industrial zone and to mix with office, service, and retail uses.
- (B) **Overview.** This zone allows commercial and industrial uses, craftsman work spaces, limited assembly and storage, and live/work units that are compatible with the existing neighborhood context and can provide opportunities for infill development on small to medium-sized lots. It can be summarized as:
 - (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks and may require height setbacks.
- (C) **Requirements.** A lot zoned industrial flex shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



Table 23-4D-7070(A) Lot Size and Intensity		
Lot Size	Area	Width
Minimum	5,000 sf	50'
Intensity	Base Standard	
Dwelling Units per Acre (max.)	24	
FAR (max.)	2.0	

Building Placement Diagram**Key for Diagrams**

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

~ Max. number of allowed stories may exceed diagram

Table 23-4D-7070(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	15'	10'	10'	10'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback from Residential House Scale

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 75' wide	15'	10'	15'	50'
Lots > 75' wide	15'	10'	50'	50'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-7070(B) Building Placement (continued)**(3) Compatibility Setback from Residential Multi-Unit Scale**

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential Multi-Unit; or is adjacent to a property zoned Residential Multi-Unit. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 75' wide	15'	10'	15'	25'
Lots > 75' wide	15'	10'	25'	25'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4100 (Semi-Opaque Buffer).

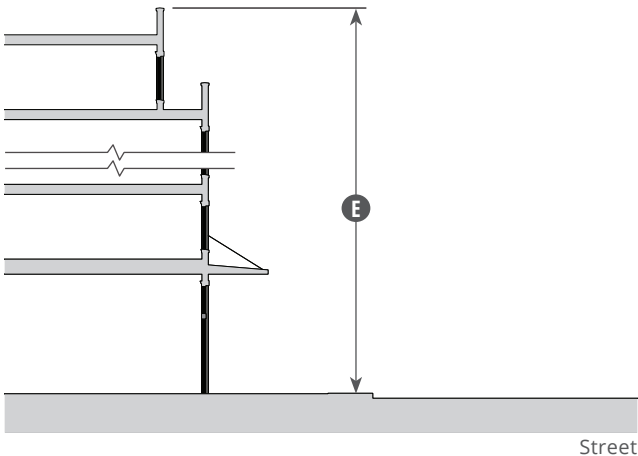
Table 23-4D-7070(C) Building Form**(1) Net Frontage defined by Building Facade³**

Location	Net Frontage
Front ⁴	40% min.
Side St. ⁴	40% min.
See exemptions in Subsection 23-4D-4050 (B)(1).	

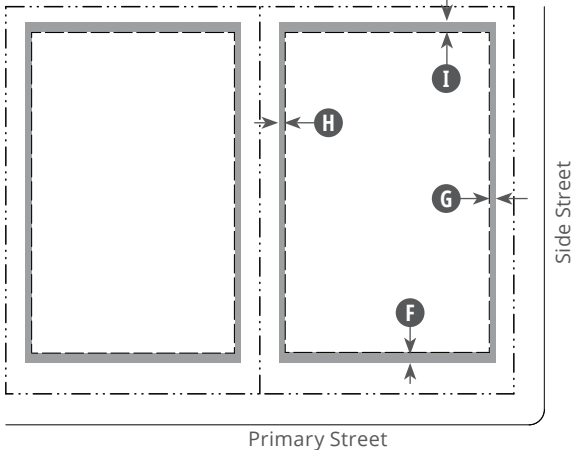
³These standards only apply to commercial uses in the IF Zone.

⁴Where there is not enough building frontage to meet the standards, an active private frontage is required in compliance with Subsection (G).

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

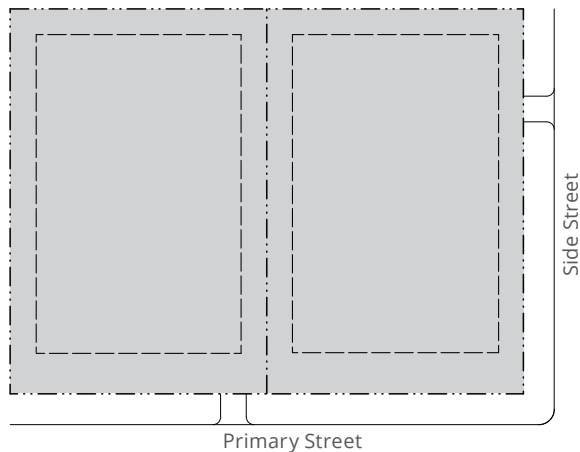
■ Encroachment

Table 23-4D-7070(D) Height

(1) All Buildings		
Overall (max.)	60'	E
(4) Compatibility Height Stepback		
(a) Building height setbacks are required where a portion of a building is located:		
(i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;		
(ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or		
(ii) adjacent to a property zoned Residential House-Scale.		
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).		
(c) Distance from the lot line of the triggering property:		
≤ 50'	Overall height shall not exceed:	35'
50'-100'		45'
>100'		Set by zone standards

Table 23-4D-7070(E) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	3'	3'	3'
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				
Encroachments within a right-of-way, public easement, or utility easement require a license agreement or encroachment agreement.				
¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).				
² 3' max. above ground.				
(2) Height Encroachment				
See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.				

Parking Diagram**Key for Diagrams**

- ROW / Lot Line
 --- Building Setback Line

■ Parking Area

Table 23-4D-7070(F) Parking**(1) Parking Requirements**

See Section 23-4D-7040 (Parking Requirements) for standards.

(2) Off-Street Parking Location Standards

Prohibited between the front property line and the portion of the building facade that satisfies the building placement requirements of Subsection (D).

Allowed between building and side property line, with screening in compliance with Division 23-4E-3 (Parking and Loading).

For sites $\leq 400'$ see Subsection 23-4D-7040 (B).

(3) Parking Location Standards - Corner Sites ¹

Surface parking is prohibited within the rectangular area formed by the setback lines as measured 100 feet back from the curb line corners (or the intersection of the curb line tangents), unless:

- A landscaped buffer is provided between the sidewalk and parking area in compliance with Division 23-4E-4 (Landscape); and
- 100% of the building frontage that faces the primary street is built to the property line.

¹These standards only apply to commercial uses in the IF Zone.

Table 23-4D-7070(G) Frontages**(1) Active Public Frontage ³**

The portion of a building facade designated for active private frontage may be setback a maximum 20 feet from the setback line. Maximum 30% of active private frontage may be set back up to 30 feet.

See Section 23-4D-4050 (B)(3) for required amenities.

³These standards only apply to commercial uses in the IF Zone.

(2) Pedestrian Access ⁴

Pedestrian entrance must face and connect directly to the primary street.

Pedestrian entrances must be provided at least every 75' along the elevation facing the primary street.

See exemptions in Subsection 23-4D-4050 (B)(2).

⁴These standards only apply to commercial uses in the IF Zone.

Table 23-4D-7070(H) Impervious Cover		
(1) Impervious Cover	% (max.)	Standards
Impervious Cover	80% ²	23-3D-3
Building Cover	75%	
See Division 23-3D-3 (Impervious Cover) for additional standards.		
See Section 23-4E-4080 (Functional Green) for developments with impervious cover greater than 80%.		

²The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-7070(I) Open Space	
(1) Open Space Type	Size (min.)
(a) Common Open Space ³	
Multi-Family Uses ≥ 10 units	5% gross site area
All Other Non-Residential Uses > 2 acres	5% gross site area
(b) Civic Open Space	
All Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

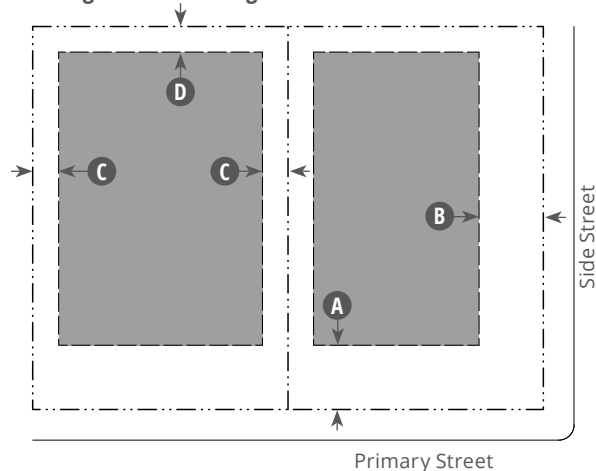
³These standards only apply to commercial uses in the IF Zone.

23-4D-7080 Industrial General (IG) Zone

- (A) **Purpose.** Industrial general (IG) zone is intended for uses that require strict development and performance standards and are located on larger sites or in a planned industrial center.
- (B) **Overview.** This zone allows commercial service, general manufacturing, and research and development uses. It can be summarized as:
 - (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks triggered by Residential House-Scale, Residential Multi-Unit, Mixed-Use, and Main Street and may require height stepbacks triggered by Residential House-Scale and Residential Multi-Unit.
- (C) **Requirements.** A lot zoned industrial general shall comply with the following requirements, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking);
 - (6) Table (F) (Impervious Cover); and
 - (7) Table (G) (Open Space).



Table 23-4D-7080(A) Lot Size and Intensity		
Lot Size	Area	Width
Minimum	1 acre	50'
Intensity	Base Standard	
Dwelling Units per Acre (max.)	—	
FAR (max.)	1.0	

Building Placement Diagram**Key for Diagrams**

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

~ Max. number of allowed stories may exceed diagram

Table 23-4D-7080(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25'	25'	10'	10'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback from Residential House Scale

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 75' wide	25'	25'	15'	50'
Lots > 75' wide	25'	25'	50'	50'

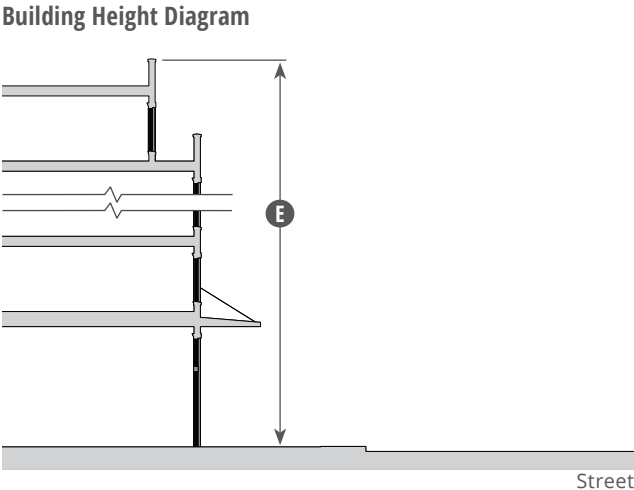
(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-7080(B) Building Placement (continued)**(3) Compatibility Setback from Residential Multi-Unit Scale**

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential Multi-Unit; or is adjacent to a property zoned Residential Multi-Unit. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 75' wide	25'	25'	15'	30'
Lots > 75' wide	25'	25'	25'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4100 (Semi-Opaque Buffer).



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Table 23-4D-7080(B) Building Placement (continued)

(3) Compatibility Setback from Mixed-Use or Main Street

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Mixed-Use or Main Street; or is adjacent to a property zoned Mixed-Use or Main Street. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front	St.	Side	Rear
	A	B	C	D
Lots ≤ 75' wide	25'	25'	15'	15'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4100 (Semi-Opaque Buffer).

Table 23-4D-7080(C) Height

(1) All Buildings

Overall (max.)	60'	E
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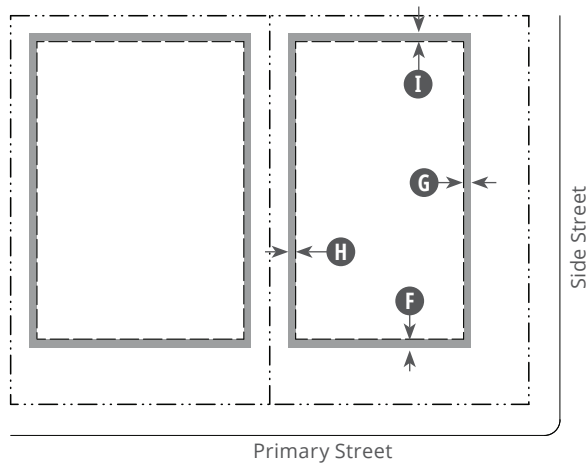
(4) Compatibility Height Stepback

- (a) Building height stepbacks are required where a portion of a building is located:
- (i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;
 - (ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or
 - (ii) adjacent to a property zoned Residential House-Scale.

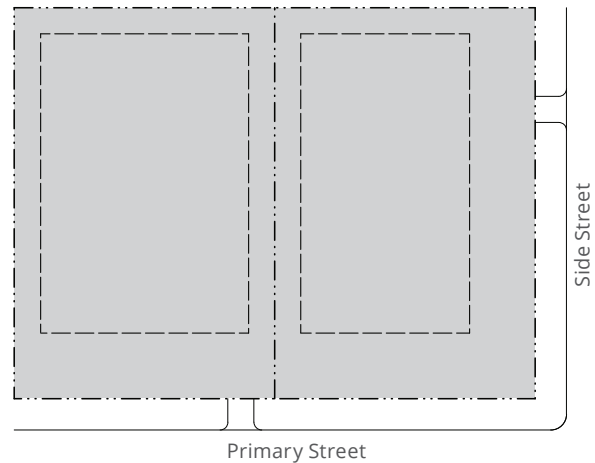
(b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).

(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:
≤ 50'	35'
50'-100'	45'
> 100'	Set by zone standards

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
--- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-7080(D) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	3'	3'	3'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Encroachments within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement**.

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² 3' max. above ground.

(2) Height Encroachment

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-7080(E) Parking

(1) Parking Requirements

See Section 23-4D-7040 (Parking Requirements) for standards.

Table 23-4D-7080(F) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	80% ³	23-3D-3
Building Cover	50%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

See Section 23-4E-4080 (Functional Green) for developments with impervious cover greater than 80%.

³The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-7080(G) Open Space	
(1) Open Space Type	Size (min.)
(a) Personal Open Space	
Multi-Family Uses < 10 units	5% gross site area in compliance with Section 23- 4E-6240 (Multi-Family)
(b) Common Open Space ¹	
Multi-Family Uses ≥ 10 units	5% gross site area
All Other Non- Residential Uses > 2 acres	5% gross site area
(c) Civic Open Space	
All Sites ≥ 4 acres	10% net development acreage in compliance with Section 23-4C-1040 (Civic Open Space)

¹ These standards only apply to commercial uses in the IG Zone.

23-4D-7090 Industrial Heavy (IH) Zone

- (A) **Purpose.** Industrial heavy (IH) zone is intended for commercial, manufacturing, and research and development uses generally located in planned major industrial developments.
- (B) **Overview.** This zone allows commercial service, manufacturing, and research and development uses. It can be summarized as:
 - (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks triggered by Residential House-Scale, Residential Multi-Unit, Mixed-Use, and Main Street and may require height setbacks triggered by Residential House-Scale.
- (C) **Requirements.** A lot zoned Industrial Heavy shall comply with the requirements established in the following tables in this section:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking);
 - (6) Table (F) (Impervious Cover); and
 - (7) Table (G) (Open Space).

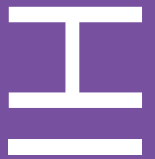
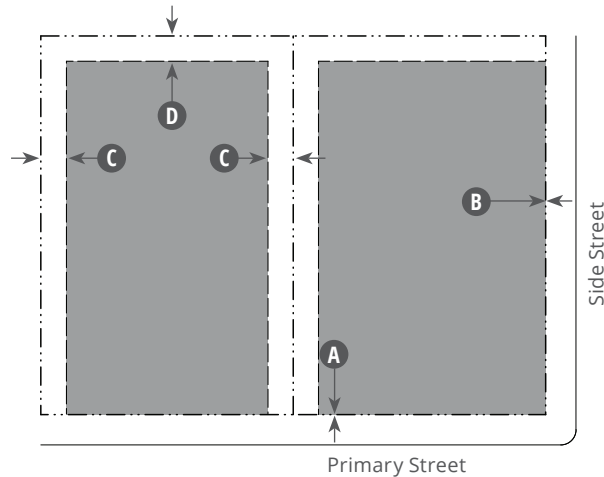


Table 23-4D-7090(A) Lot Size and Intensity		
Lot Size	Area	Width
Minimum	25 acres	100'
Intensity	Base Standard	
Dwelling Units per Acre (max.)	—	
FAR (max.)	1.0	

Building Placement Diagram**Key for Diagrams**

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

Table 23-4D-7090(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	15'	15'	10'	10'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback from Residential House Scale

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 200' wide	25'	25'	25'	50'
Lots > 200' wide	25'	25'	50'	50'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

Table 23-4D-7090(B) Building Placement (continued)**(3) Compatibility Setback from Residential Multi-Unit Scale**

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential Multi-Unit; or is adjacent to a property zoned Residential Multi-Unit. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
minimum	25'	25'	25'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4100 (Semi-Opaque Buffer).

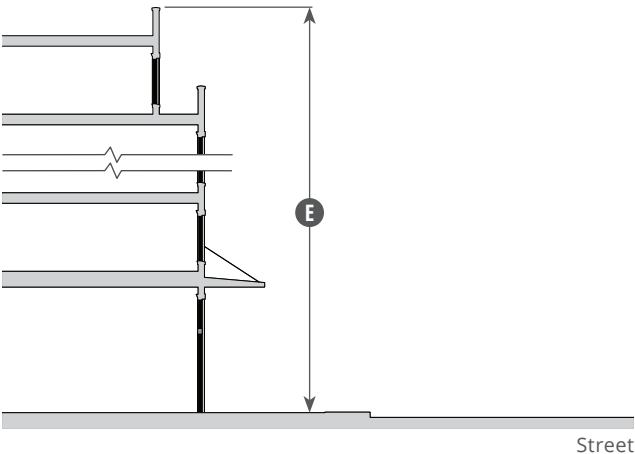
(3) Compatibility Setback from Mixed-Use or Main Street

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Mixed-Use or Main Street; or is adjacent to a property zoned Mixed-Use or Main Street. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

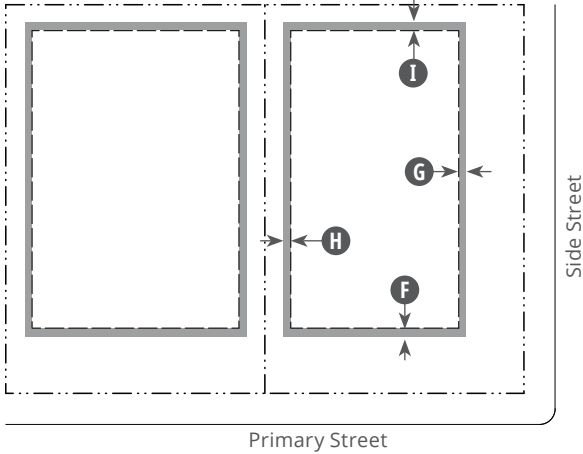
(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 75' wide	25'	25'	15'	15'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4110 (Opaque Buffer).

Building Height Diagram



Encroachments Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

Table 23-4D-7090(C) Height

(1) All Buildings

Overall (max.)	120'	E
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(4) Compatibility Height Stepback

- (a) Building height setbacks are required where a portion of a building is located:
- (i) across an alley less, than 20 feet in width, from a property zoned Residential House-Scale;
 - (ii) across a right-of-way less than 60 feet in width from a property zoned Residential House-Scale; or
 - (ii) adjacent to a property zoned Residential House-Scale.
- (b) Where a building height stepback is required, then the overall height of buildings shall comply with subsection (c).

(c) Distance from the lot line of the triggering property:	Overall height shall not exceed:
≤ 50'	35'
50'-100'	45'
> 100'	Set by zone standards

Key for Diagrams

- Buildable Area
- Encroachment
- ⚡ Max. number of allowed stories may exceed diagram

Table 23-4D-7090(D) Encroachments

	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
(1) Encroachment Type				
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	3'	3'	3'

Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).

Encroachments are not allowed within a right-of-way, public easement, or utility easement **require a license agreement or encroachment agreement.**

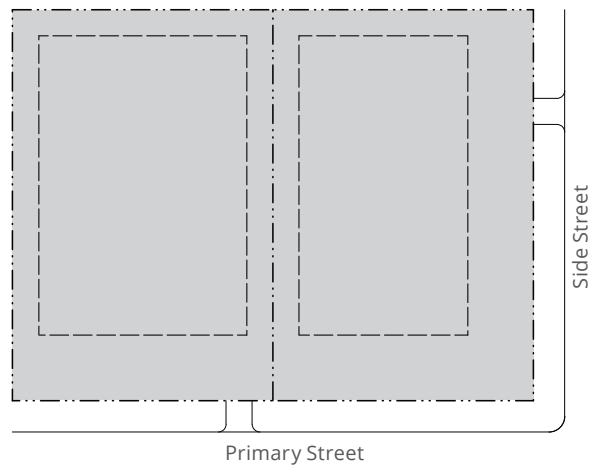
¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² A maximum 3' above ground.

(2) Height Encroachment

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line
- Parking Area

Table 23-4D-7090(E) Parking

(1) Parking Requirements

See Section 23-4D-7040 (Parking Requirements) for standards.

Table 23-4D-7090(F) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	80% ³	23-3D-3
Building Cover	75%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

See Section 23-4E-4080 (Functional Green) for developments with impervious cover greater than 80%.

³ The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-7090(G) Open Space

(1) Open Space Types	Size (min.)
Personal Open Space	None
Common Open Space	None
Civic Open Space	None

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23-4D-7100 Research & Development (R&D) Zone

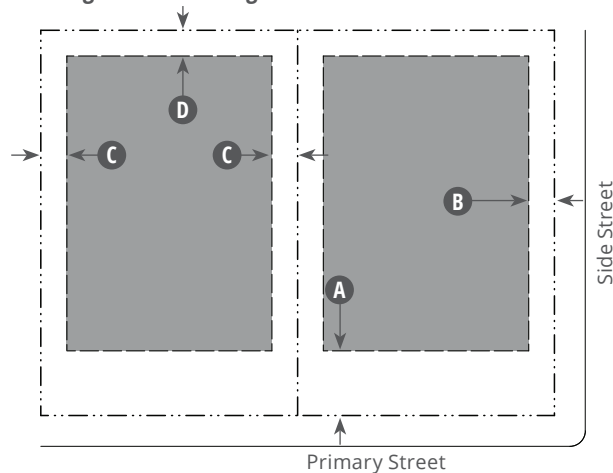
- (A) **Purpose.** Research and development (R&D) zone is intended for a variety of uses on large sites.
- (B) **Overview.** This zone allows a mix of professional and administrative facilities, research and testing institutions, light industrial or manufacturing uses, general warehousing and distribution, green technology facilities, and office uses. The buildings within this zone may be grouped in a campus or park-like setting. It can be summarized as:
 - (1) not eligible for affordable housing bonus program; and
 - (2) the compatibility effects in this zone may require additional setbacks triggered by Residential House-Scale, Residential Multi-Unit, Mixed-Use, and Main Street but does not require height stepbacks.
- (C) **Requirements.** A lot zoned research and development shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Building Form);
 - (4) Table (D) (Height);
 - (5) Table (E) (Encroachments);
 - (6) Table (F) (Parking);
 - (7) Table (G) (Frontages);
 - (8) Table (H) (Impervious Cover); and
 - (9) Table (I) (Open Space).



R&D

Table 23-4D-7100(A) Lot Size and Intensity		
Lot Size	Area	Width
Minimum	5 acres	50'
Maximum	25 acres	N/R
Intensity	Base Standard	
Dwelling Units per Acre (max.)	—	
FAR (max.)	1.0 ¹	

¹ The maximum floor area ratio is 0.25 in Drinking Water Protection Zone.

Building Placement Diagram**Key for Diagrams**

--- ROW / Lot Line

--- Building Setback Line

■ Buildable Area

~ Max. number of allowed stories may exceed diagram

Table 23-4D-7100(B) Building Placement

(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Minimum	25'	10'	10'	10'

(2) Additional Setback

Where street right-of-way, public easement, or utilities easement is required, additional setback and/or easement shall be provided.

(3) Compatibility Setback from Residential House Scale

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential House-Scale; or is adjacent to a property zoned Residential House-Scale. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 100' wide	25'	10'	15'	30'
Lots > 100' wide	25'	10'	25'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4090 (Intermittent Visual Obstruction Buffer).

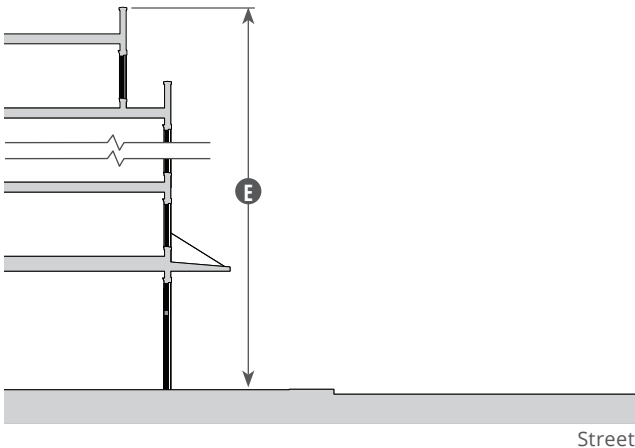
Table 23-4D-7100(B) Building Placement (continued)**(4) Compatibility Setback from Residential Multi-Unit Scale**

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Residential Multi-Unit; or is adjacent to a property zoned Residential Multi-Unit. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front A	St. B	Side C	Rear D
Lots ≤ 100' wide	25'	10'	15'	30'
Lots > 100' wide	25'	10'	25'	30'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4100 (Semi-Opaque Buffer).

Building Height Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Buildable Area

⌘ Max. number of allowed stories may exceed diagram

Table 23-4D-7100(B) Building Placement (continued)

(5) Compatibility Setback from Mixed-Use or Main Street

(a) Where a portion of a building is across an alley less than 20 feet in width from a property zoned Mixed-Use or Main Street; or is adjacent to a property zoned Mixed-Use or Main Street. Then minimum setbacks shall be provided along the alley or shared lot line that comply with subsections (b) and (c).

(b) Compatibility Setback	Side			
	Front	St.	Side	Rear
	A	B	C	D
Lots ≤ 75' wide	25'	10'	15'	15'

(c) Where a compatibility setback is required along a side or rear lot line, then a landscape buffer shall be provided that complies with Section 23-4E-4110 (Opaque Buffer).

Table 23-4D-7100(C) Building Form

(1) Net Frontage defined by Building Facade

Location	Net Frontage
Front ⁵	40% min.
Side St. ⁵	40% min.

See exemptions in Subsection 23-4D-4050 (B)(1).

⁵Where there is not enough building frontage to meet the standards, an active private frontage is required in compliance with Subsection (G).

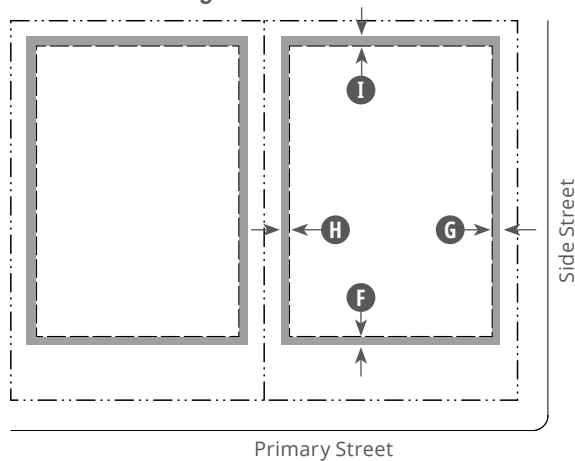
Table 23-4D-7100(D) Height

(1) All Buildings

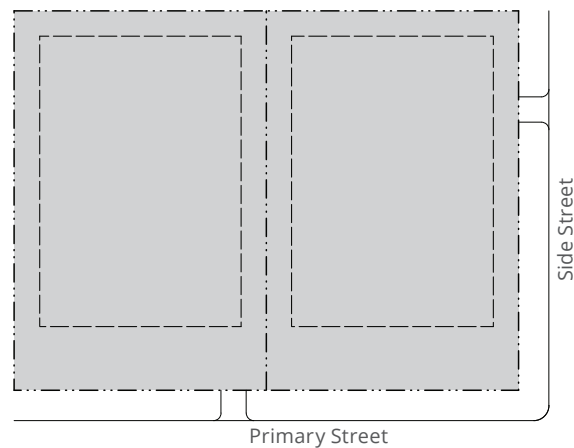
Overall (max.)	45' up to 90' ⁶	E
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⁶Height of a building may exceed 45 feet by one foot for each additional two feet that the building is set back beyond 100 feet from the front and side lot lines and beyond 50 feet from the rear lot line, up to a maximum height of 90 feet.

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
--- Building Setback Line

■ Encroachment

■ Parking Area

Table 23-4D-7100(E) Encroachments

(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Porch, Stoop, or Uncovered Steps ²	8'	3'	3'	3'
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments).				
Encroachments within a right-of-way, public easement, or utility easement require a license agreement or encroachment agreement.				

¹ Does not apply to a feature required for a passive energy design. See ramp exceptions in Subsection 23-4E-7050(B)(7).

² A maximum 3' above ground.

(2) Height Encroachment

See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-7100(F) Parking

(1) Parking Requirements

See Section 23-4D-7040 (Parking Requirements) for standards.

(2) Off-Street Parking Location Standards for Commercial Uses

Allowed between the building frontage and the front property line in compliance with the following:

Landscaped buffer in compliance Division 23-4E-4 (Landscape) with required between sidewalk and parking area.

Must provide a public sidewalk that crosses parking area, providing direct pedestrian access to the building entrance visible from the property line. No more than two drive aisles may cross the sidewalk.

(3) Parking Location Standards - Corner Sites ⁴

Surface parking is prohibited within the rectangular area formed by the setback lines as measured 100 feet back from the curb line corners (or the intersection of the curb line tangents), unless:

A landscaped buffer is provided between the sidewalk and parking area in compliance with Division 23-4E-4; and

100% of the building frontage that faces the primary street is built to the property line.

Table 23-4D-7100(G) Frontages

(1) Active Public Frontage for Commercial Uses

The portion of a building facade designated for active private frontage may be setback a maximum 20 feet from the setback line. Maximum 30% of active private frontage may be set back up to 30 feet.

See Subsection 23-4D-4050 (B)(3) for required amenities.

(2) Pedestrian Access

Pedestrian entrance must be provided at least every 75' along the elevation facing the primary street and connect directly to the primary street.

See exemptions in Subsection 23-4D-4050 (B)(2).

Table 23-4D-7100(H) Impervious Cover

(1) Impervious Cover	% (max.)	Standards
Impervious Cover	50% ^{1, 2, 3}	23-3D-3
Building Cover	40%	

See Division 23-3D-3 (Impervious Cover) for additional standards.

¹The maximum impervious cover may not be attainable due to unique site characteristics, such as trees, waterways, and steep slopes. Where necessary, the project must reduce the impervious cover to comply with other requirements of this Title.

²The maximum impervious cover is 50% on land with a gradient of 15% or less.

³Impervious cover is prohibited on land with a gradient greater than 15%.

Table 23-4D-7100(I) Open Space

(1) Open Space Type	Size (min.)
Personal Open Space	None
Common Open Space	
Commercial Uses	Minimum 5% gross site area
Other Uses ≥ 2 acres	See Section 23-4C-1030 (Common Open Space)
Other Uses < 2 acres	None

Division 23-4D-8: Other Zones

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23-4D-8010 Purpose

This division establishes the land use and building form requirements for property subject to a zoning classification included within this division. The requirements implement the Comprehensive Plan and are intended to ensure that proposed development is compatible with existing and future development on neighboring properties. Additionally the requirements are intended to produce an environment of desirable character, consistent with Comprehensive Plan and any applicable area plan.

23-4D-8020 Applicability

- (A) The requirements in this division apply to a lot zoned under this division.
- (B) The uses allowed on a lot zoned under this division are subject to the requirements of this division and Article 23-4E (Supplemental to Zones).

- (C) In addition to the requirements included within this division and Article 23-4E (Supplemental to Zones), a lot or use may also be subject to the following provisions in this Title:
- (1) Article 23-3C (Urban Forest Protection and Replenishment);
 - (2) Article 23-3D (Water Quality);
 - (3) Article 23-3E (Affordable Housing);
 - (4) Division 23-4E-2 (Outdoor Lighting);
 - (5) Division 23-4E-7 (Additional General Standards);
 - (6) Section 23-4E-8060 (Building Design);
 - (7) Chapter 23-8 (Signs); and
 - (8) Article 23-10E (Drainage).
- (D) The provisions identified in Subsection (C) may not be an exhaustive list of the requirements that apply to a lot or use. Failure to include a specific provision in Subsection (C) or anywhere else in this division does not exempt the lot or use from complying with the provision.

23-4D-8030 Allowed Uses and Permit Requirements

(A) **Allowed Land Uses.**

- (1) Table (A) establishes the uses allowed in the zones included in this division.
- (2) Each use is defined in Division 23-13A-2 (Land Uses).
- (3) If Table (A) identifies a permit requirement for the land use, then a property may not be used in that manner until the property owner or property operator obtains a permit.
- (4) If a land use is subject to additional requirements, the table identifies the section within Division 23-4E-6 (Specific to Use) that applies.
- (5) If a land use is marked with “—” or is not included in the table, it is not allowed in the zone.

Table 23-4D-8030(A) Allowed Uses in Mixed-Use Zones AG, AV, DR, P, PR, and CL						
Use Type	Specific to Use Requirements	AG	AV	CL	P	PR
(1) Residential						
Accessory Dwelling Unit - Residential	23-4E-6030	—	—	—	P ¹	—
Bed and Breakfast	23-4E-6090	—	—	—	—	—
Cooperative Housing		—	—	—	P ¹	—
Duplex	23-4E-6170	—	—	—	P ¹	—
Group Residential		—	—	—	P ¹	—
Home Occupations	23-4E-6200	—	—	—	P ¹	—
Manufactured Home		—	—	—	P ¹	—
Multi-Family	23-4E-6250	—	—	—	P ¹	—
Senior/Retirement Housing						
≤12	23-4E-6330	—	—	—	P ¹	—
>12	23-4E-6330	—	—	—	P ¹	—
Single-Family		CUP	—	—	P ¹	—
Work/Live	23-4E-6380	—	—	—	P ¹	—
(2) Residential Support						
Emergency Shelter		—	—	—	P ¹	—
Residential Care Facility		—	—	—	P ¹	—
Transitional and Supportive Housing		—	—	—	P ¹	—

Table Continues on Next Page — — — — ➔

Notes¹ Allowed only if associated with an allowed service, civic or public assembly use.² If associated with an existing recreation use on the same site or part of an approved master plan³ If not associated with an existing use or not part of an approved master plan**Key for Table 23-4D-8030(A)**

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required		

Table 23-4D-8030(A) Allowed Uses in Mixed-Use Zones AG, AV, DR, P, PR, and CL (continued)						
Use Type	Specific to Use Requirements	AG	AV	CL	P	PR
(3) Services						
Alternative Financial Services	23-4E-6080	—	—	—	—	—
Animal Service/Boarding						
Level 1		—	P	—	—	—
Level 2		—	P	—	—	—
Level 3		—	P	—	—	—
Business and Financial/Professional Services		—	P	—	P	—
Commercial Services and Repair						
No Outside Storage		—	P	—	—	—
w/ Incidental Outside Storage		—	P	—	—	—
Day Care						
Small <7		—	—	—	P	—
Large 7 ≥ and ≤20		—	—	—	P	—
Commercial		—	—	—	P	—
Drive Through, Retail, or Service Facility	23-4E-6160	—	—	—	—	—
Funeral/Mortuary Home		—	—		P	—
Hospital		—	—	—	P	—
Hotel/Motel		—	P	—	—	—
Medical Services						
<2,500 sf		—	—	—	P	—
>2,500 sf		—	—	—	P	—
Personal Services						
Non-restricted		—	P	—	—	—
Restricted		—	—	—	—	—

Table Continues on Next Page — — — — ➔

Notes

¹ Allowed only if associated with an allowed service, civic or public assembly use.

² If associated with an existing recreation use on the same site or part of an approved master plan

³ If not associated with an existing use or not part of an approved master plan

Key for Table 23-4D-8030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required		

Table 23-4D-8030(A) Allowed Uses in Mixed-Use Zones AG, AV, DR, P, PR, and CL (continued)

Use Type	Specific to Use Requirements	AG	AV	CL	P	PR
(4) Office						
Office, General (non-medical)		—	P	—	—	—
(5) Civic and Public Assembly						
Cemetery		—	P	—	P	—
Detention Facility		—	P	—	P	—
Government		—	P	—	P	—
Library, Museum, or Public Art Gallery		—	—	—	P	P ¹
Meeting Facility (public or private)		—	P	—	P	P ¹
Public Safety Facility		—	P	—	P	P ¹
Religious Assembly Facility		P	P	—	P	P
School						
Business, or Trade	23-4E-6320	—	P	—	P	—
College or University	23-4E-6320	—	P	—	P	—
Private Primary	23-4E-6320	—	—	—	P	—
Private Secondary	23-4E-6320	—	—	—	P	—
Public Primary	23-4E-6320	—	—	—	P	—
Public Secondary	23-4E-6320	—	—	—	P	—

Table Continues on Next Page — — — — ➔

Notes¹ Allowed only if associated with an allowed service, civic or public assembly use.² If associated with an existing recreation use on the same site or part of an approved master plan³ If not associated with an existing use or not part of an approved master plan**Key for Table 23-4D-8030(A)**

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required		

Table 23-4D-8030(A) Allowed Uses in Mixed-Use Zones AG, AV, DR, P, PR, and CL (continued)						
Use Type	Specific to Use Requirements	AG	AV	CL	P	PR
(6) Restaurant and Bars						
Bar/Nightclub						
Level 1		—	P	—	P ¹	—
Level 2		—	P	—	—	—
Mobile Food Sales	23-4E-6230	—	P	—	P ¹	—
Restaurant						
w/o Alcohol Sales		—	P	—	P ¹	—
w/ Alcohol Sales	23-4E-6310	—	P	—	P ¹	—
Drive Through	23-4E-6160	—	P	—	—	—
Late Night Operation	23-4E-6310	—	P	—	—	—
(7) Retail						
Alcohol Sales	23-4E-6070	—	P	—	P ¹	—
Commercial Food Preparation		—	—	—	P ¹	—
Food Sales		—	P	—	P ¹	—
General Retail						
≤ 5,000 sq ft		—	P	—	P ¹	—
>5,000 and ≤10,000 sf		—	P	—	P ¹	—
> 10,000 and ≤ 100,000 sf		—	P	—	P ¹	—
> 100,000 sf		—	—	—	—	—
w/ Onsite Production		—	P	—	P ¹	—
w/ Outside Storage	23-4E-6190	—	P	—	P ¹	—
Mobile Retail Sales	23-4E-6240	—	P	—	P ¹	—

Table Continues on Next Page — — — — ➔

Notes

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² If associated with an existing recreation use on the same site or part of an approved master plan

³ If not associated with an existing use or not part of an approved master plan

Key for Table 23-4D-8030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required		

Table 23-4D-8030(A) Allowed Uses in Mixed-Use Zones AG, AV, DR, P, PR, and CL (continued)						
Use Type	Specific to Use Requirements	AG	AV	CL	P	PR
(8) Entertainment and Recreation						
Adult Entertainment	23-4E-6060	—	—	—	—	—
Recreational Vehicle Park	23-4E-6280	—	—	—	P	MUP ² /CUP ³
Convention Center	23-4E-6140	—	—	—	—	—
Performance Venue/Theater	23-4E-6260					
Indoor	23-4E-6260					
≤2,500 sf	23-4E-6260	—	P	—	P ¹	MUP ² /CUP ³
2,500-10,000 sf	23-4E-6260	—	—	—	P ¹	MUP ² /CUP ³
> 10,000 sf	23-4E-6260	—	—	—	—	MUP ² /CUP ³
Outdoor	23-4E-6260					
≤ 2,500 sf	23-4E-6260	—	P	—	P ¹	MUP ² /CUP ³
2,500-10,000 sf	23-4E-6260	—	—	—	P ¹	MUP ² /CUP ³
> 10,000 sf	23-4E-6260	—	—	—	—	MUP ² /CUP ³
Marina		—	—	—	P ¹	—
Recreation						
Indoor ≤ 5,000 sf	23-4E-6290	—	—	—	P ¹	MUP ² /CUP ³
Indoor > 5,000 sf	23-4E-6290	—	—	—	P ¹	MUP ² /CUP ³
Outdoor, Formal	23-4E-6290	—	—	—	P ¹	MUP ² /CUP ³
Outdoor, Informal	23-4E-6290	—	—	—	P	P
Outdoor, Natural	23-4E-6290	—	—	P	P	P
Spectator Sport or Entertainment		—	—	—	P	—
Community Events	23-4E-6140	—	—	—	—	MUP ² /CUP ³
Studio: art, dance, martial arts, music	23-4E-6370	—	—	—	P ¹	—

Table Continues on Next Page — — — — ➔

Notes¹ Allowed only if associated with an allowed service, civic or public assembly use.² If associated with an existing recreation use on the same site or part of an approved master plan³ If not associated with an existing use or not part of an approved master plan**Key for Table 23-4D-8030(A)**

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required		

Table 23-4D-8030(A) Allowed Uses in Mixed-Use Zones AG, AV, DR, P, PR, and CL (continued)						
Use Type	Specific to Use Requirements	AG	AV	CL	P	PR
(9) Industrial						
Agricultural Industry		CUP	P	—	—	—
Manufacturing and Storage						
Light	23-4E-6220	—	P	—	P ¹	—
General	23-4E-6220	—	P	—	P ¹	—
Restricted	23-4E-6220	—	P	—	P ¹	—
Mining and Resource Extraction		—	—	—	P ¹	—
Recycling Center						
Collection and Transfer	23-4E-6290	—	—	—	P ¹	—
Storage and Processing	23-4E-6290	—	—	—	P ¹	—
Salvage/Junk Yard		—	—	—	P ¹	—
(10) Agriculture						
Animal Production		P	—	—	P	—
Agricultural Support		P	—	—	P ¹	—
Community Agriculture	23-4E-6120	P	—	—	P	P
Indoor Crop Production		P	—	—	P	—
Plant Production		P	—	—	P	—
Stables		P	—	—	P	P
(11) Automobile Related						
Automobile Sales, Rental, and Storage		—	P	—	P ¹	—
Automobile Repair		—	P	—	P ¹	—
Commercial Vehicle Storage and Dispatch		—	P	—	P ¹	—
Gas Station	23-4E-6180	—	P	—	P ¹	—
Heavy Equipment Sales					P ¹	

Table Continues on Next Page — — — — ➔

Notes

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² If associated with an existing recreation use on the same site or part of an approved master plan

³ If not associated with an existing use or not part of an approved master plan

Key for Table 23-4D-8030(A)

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required		

Table 23-4D-8030(A) Allowed Uses in Mixed-Use Zones AG, AV, DR, P, PR, and CL (continued)

Use Type	Specific to Use Requirements	AG	AV	CL	P	PR
Sales, Rental, and Storage		—	P	—	P ¹	—
Repair		—	P	—	P ¹	—
Parking Facility		—	P	—	P ¹	—
Recreational and Sports Vehicle Sales, Rental, and Storage		—	—	—	P ¹	—
(12) Innovation and Technology						
Research and Development						
Non-restricted	23-4E-6300	—	P	—	P ¹	—
Restricted	23-4E-6300	—	P	—	P ¹	—
(13) Other						
Accessory Uses	23-4E-6050	P	P		P	P
Communications	23-4E-6110	P	P		P	P
Helicopter and Non-fixed Wing Aircraft Facilities		CUP	P		CUP	—
Utilities						
Local		P	P		P	—
Major		—	P		P	—
Telecommunications	23-4E-6370	P	P		P	—
Temporary Uses	23-4B-1050	TUP	TUP		TUP	TUP
Transportation Facilities		—	P		P	—
Transit Terminal		—	P		P	—
Special Uses	23-4E-6350	—	—		—	P

Notes¹ Allowed only if associated with an allowed service, civic or public assembly use.² If associated with an existing recreation use on the same site or part of an approved master plan³ If not associated with an existing use or not part of an approved master plan**Key for Table 23-4D-8030(A)**

P	Permitted Use	TUP	Temporary Use Permit Required
MUP	Minor Use Permit Required	—	Not Allowed
CUP	Conditional Use Permit Required		

23-4D-8040 **Parking Requirements**

(A) **Parking.**

- (1) Except as provided in subsections (A)(2) and (A)(3), the director shall determine the minimum off-street motor vehicle parking requirement and minimum off-street loading requirement for a use allowed in a zone included in this division. In making a determination, the director shall consider the requirements applicable to similar uses, the location and characteristics of the use, and appropriate traffic engineering and planning data.
- (2) For a property owned by the City, the off-street parking requirement for each use allowed in a zone is determined by the director.
- (3) A property zoned Former Title 25 shall comply with the parking requirements established in the applicable ordinances and agreements adopted prior to the effective date of this Title.

23-4D-8050 Agriculture (AR) Zone

- (A) **Purpose.** Agriculture (AG) zone is intended to preserve areas of prime agricultural soils, concentrate urban development in and around growth centers, promote compact urban development, and preserve the environment and open spaces.
- (B) **Overview.** This zone allows for agriculture uses or agriculture-related uses.
- (C) **Requirements.** A lot zoned agriculture shall comply with the requirements of this subsection, which are established in the following tables:
 - (1) Table (A) (Lot Size and Intensity);
 - (2) Table (B) (Building Placement);
 - (3) Table (C) (Height);
 - (4) Table (D) (Encroachments);
 - (5) Table (E) (Parking); and
 - (6) Table (F) (Impervious Cover).

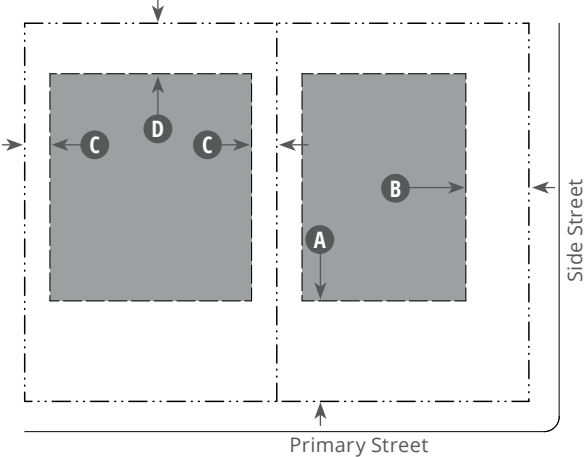


AG

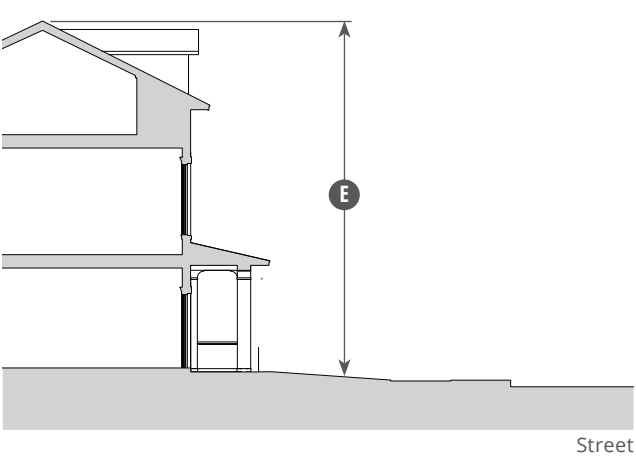
Table 23-4D-8050(A) Lot Size and Intensity

Use Type	Lot Size
Permitted Use (min.)	10 acres
Conditional Use	
Minimum	1 acre
Maximum	1.5 acres
Intensity	
Dwelling Units per Lot (max.)	1

Building Placement Diagram



Building Height Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

■ Buildable Area

Table 23-4D-8050(B) Building Placement

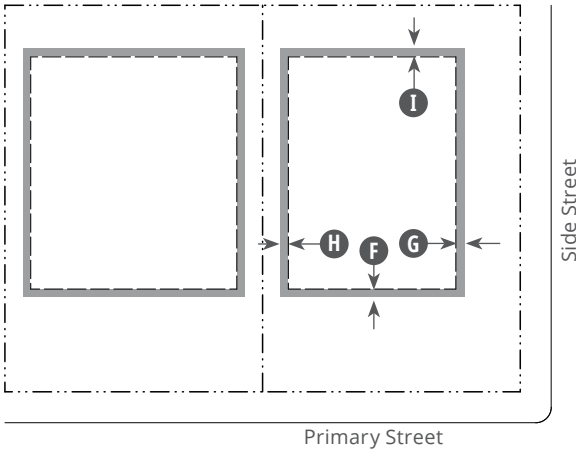
(1) Setback (Distance from ROW / Lot Line)	Front A	Side St. B	Side C	Rear D
Permitted Use (min.)	100'	100'	100'	100'
Conditional Use (min.)	40'	25'	10'	20' ¹

¹ The maximum distance from a rear lot line to the centerline of the nearest public road is 400'.

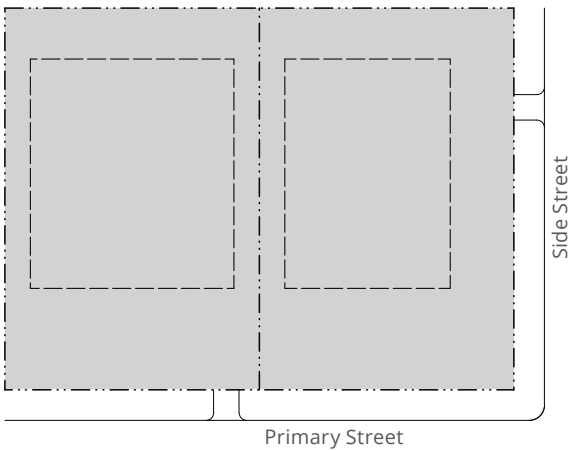
Table 23-4D-8050(C) Height

(1) Permitted Use		
Overall (max.)	60'	E
(2) Conditional Use		
Overall (max.)	35'	E

Encroachments Diagram



Parking Diagram



Key for Diagrams

- ROW / Lot Line
- Building Setback Line

- Encroachment
- Parking Area

Table 23-4D-8050(D) Encroachments				
(1) Encroachment Type	Front (max.) F	Side St. (max.) G	Side (max.) H	Rear (max.) I
Architectural Features ¹	2'	2'	2'	2'
Uncovered Steps, Porch, or Stoop ²	3'	3'	3'	3'
Ramp. When a ramp encroaches into a setback, then the ramp shall comply with Section 23-4E-7080 (Standards for Ramps Located Within Encroachments). Landscaping may be located in a required setback.				

¹ Does not apply to a feature required for a passive energy design.

² The maximum height for an uncovered step, porch, or stoop is three feet.

(2) Height Encroachment
See Section 23-4E-7050 (Encroachments Above Maximum Height) for additional standards.

Table 23-4D-8050(E) Parking		
(1) Parking Requirements		
See Section 23-4D-8040 (Parking Requirements) for standards.		
Table 23-4D-8050(F) Impervious Cover		
(1) Impervious Cover	sf (max.)	Standards
Impervious Cover	12,500 sf or 25%, whichever is less	23-3D-3
Building Cover	10,000 sf or 20%, whichever is less	
See Division 23-3D-8 (Additional Standards in All Watersheds) for additional standards.		

23-4D-8060 Aviation Services (AV) Zone

- (A) **Purpose.** Aviation services (AV) zone is intended for airport-related uses that require direct access to airport facilities or that support airport operations and services.
- (B) **Additional Standards**
 - (1) For publicly owned land in an AV Zone, this Title does not prescribe site development standards.
 - (2) **Requirements.**
 - (a) This section applies only to land that is privately owned.
 - (b) A conditional use permit and site plan are required for any use allowed in this zone.
 - (c) A site plan for airport-related use may not be approved until the applicant obtains an airport operating agreement for the intended use.



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23-4D-8070 Conservation Lands (CL) Zone

- (A) **Purpose.** Conservation lands (CL) zone conserves land in a form that is generally free from development.
- (B) **Overview.** A conservation land may be used for natural recreation but may not otherwise be developed. Its character may be summarized as:
 - (1) No development allowed
 - (2) Not eligible for affordable housing bonus program; and
 - (3) The compatibility effects in this zone do not require additional setbacks or height stepbacks.
- (C) **Additional Specific Use Standards**
 - (1) For Recreation: Outdoor, Natural uses
 - (a) For submittals on sites not greater than 1 acre and not requiring a site plan, Recreation: Outdoor, Natural uses are permitted.
 - (b) For submittals requiring a site plan, Recreation: Outdoor, Natural uses require a minor use permit (MUP).
 - (2) For lands subject to deed and covenant restrictions, conservation easements, or plans for land management that restrict uses only the following development is allowed:
 - (a) parking for public access,
 - (b) trails, structures needed for nature education programs or observation of nature; and
 - (c) restrooms.
- (D) **Parking.** The off-street parking requirements may be established in a joint agreement.

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23-4D-8080 Former Title 25 (F25) Zone

(A) Purpose and Applicability

- (1) The purpose of the former title 25 (F25) zone is to incorporate within the Land Development Code certain specially negotiated regulatory ordinances and agreements applicable prior to the effective date of this Title, but which continue to serve important purposes.
- (2) The former title 25 zone is limited to certain properties located within the zoning districts and other regulatory classifications specifically designated under Subsection (B). It is the City's intent that properties within the former title 25 zone shall be rezoned over time to zones established under this Title.

(B) Scope

- (1) This zone includes properties subject to the following ordinances and agreements adopted prior to the effective date of this Title:
 - (a) Planned Unit Developments;
 - (b) Neighborhood Conservation Combining Districts;
 - (c) Planned Development Agreements (PDA);
 - (d) Regulating Plans;
 - (e) specifically identified Conditional Overlays; and
 - (f) other agreements and ordinances, which are designated F25.
- (2) The director shall publish a guide to the F25 Zone on the City's website, which shall list all of the designations in Subsection (C)(1) and provide useful information regarding regulations applicable to properties within the F25 Zone.

(C) Effect of F25 Zone

(1) Generally Applicable Regulations. A property within the F25 Zone is subject to:

- (a) The zoning regulations of the City's predecessor Land Development Code, Chapter 25-2 (Zoning), in effect on or before _____, 2018 [i.e., day before effective date of CodeNEXT], except as provided in Subsection (C)(2);
- (b) All other applicable regulations of this Title, except for Chapter 23-4 (Zoning Code); and
- (c) Regulations imposed by an ordinance or agreement designated under Subsection (B), which shall control in the event of a conflict with regulations otherwise applicable under Subsections (C)(1)(a)-(b).

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(2) **F25 Compatibility Standards.**

- (a) Properties within the F25 Zone are subject to the compatibility regulations established under former Chapter 25-2, Subchapter C, Article 10 (Compatibility), which limit the scale and intensity of development based on the existing use and zoning of adjacent properties.
- (b) Residential House-Scale Zones shall also trigger the compatibility regulations established under former Chapter 25-2, Subchapter C, Article 10 (Compatibility) for properties within the F25 Zone.
- (c) Properties within the F25 Zone that would have triggered the compatibility regulations established under former Chapter 25-2, Subchapter C, Article 10 (Compatibility) shall be treated as Residential House-Scale Zones and trigger the compatibility regulations established in this Title for properties within Zones established in this Title.

(D) **F25 Rezoning Policy.** In order to achieve compliance with the current regulations of this Title and minimize reliance on prior regulations, the City's preferred policy is to:

- (1) Rezone properties within the F25 Zone to current zones established in this Title and gradually eliminate Planned Development Agreements (PDAs), Neighborhood Conservation Combining District (NCCDs), and conditional overlays (COs); and
- (2) Rezone properties within an F25 Planned Unit Development (PUD) zoning district or an F25 small-area regulating plan by adopting updated PUD zoning ordinances and small-area plans consistent with requirements of this Title.

23-4D-8090 Public (P) Zone

- (A) **Purpose.** Public (P) zone is intended for areas that are government-owned civic, public institutions, or indoor or outdoor active recreation uses.
- (B) **Additional Requirements**
 - (1) **Residential Uses.** If a residential use is allowed in Table 23-4D-7040(A), the site development requirements are the same as the most comparable residential zone.
 - (2) **Non-Residential Uses**
 - (a) If the site is less than one acre, the site development requirements of the zone on the adjacent property applies. A property owned by the City is not subject to minimum lot size requirements.
 - (b) If a site is larger than one acre, then a conditional use permit and site plan are required.



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23-4D-8100 Park (PR) Zone

- (A) **Purpose.** Park (PR) zone is intended to preserve areas for outdoor, indoor, and natural recreation land uses.
- (B) **Overview.** This zone allows parks, playgrounds, recreation facilities, or open spaces. Its character may be summarized as:
 - (1) Form Controls Determined by MUP/CUP
 - (2) Not eligible for affordable housing bonus program; and
 - (3) The compatibility effects in this zone do not require additional setbacks or height stepbacks.
- (C) **Requirements**
 - (1) If a use is allowed by right, the development requirements of the least restrictive adjacent zone apply.
 - (2) If a use is allowed with a minor use permit, the development requirements in an adopted master plan or, if a master plan does not exist, the least restrictive adjacent zone apply.
 - (3) If a use is allowed with a conditional use permit, the development requirements included within the site plan apply.
 - (4) A lot zoned park is not required to comply with the following requirements:
 - (a) Section 23-4C-1020 (Internal Circulation);
 - (b) Division 23-4C-2 (Civic Open Space);
 - (c) Division 23-4E-4 (Landscape);
 - (d) Division 23-4E-8 (Building Standards);
 - (e) Section 23-9B-1040 (Proportionality of Required Infrastructure); and
 - (f) Division 23-9C-1 (Roadways Generally).



PR

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23-4D-8110 Planned Unit Development (PUD) Zone

(A) Purpose and Overview

- (1) The planned unit development (PUD) zone is intended to preserve the natural environment, encourage high quality development and innovative design, and ensure adequate public facilities and services.
- (2) The Council intends a PUD district zone to produce a development that achieves these goals to a greater degree than and that is superior to development under base zoning and subdivision regulations (Subsections F and G).
- (3) The PUD Zone is intended to respond to unique and extraordinary circumstances, where more flexible zoning than what is achievable through a base Zone is necessary, this includes:
 - (a) A development site with special physical characteristics, such as properties with significant topographical or environmental barriers to standard development or construction practices.
 - (b) A development site subject to an existing PUD and rezoning to a new PUD District will bring the site closer to conformance with current zoning regulations and adopted plans.
 - (c) Where the proposed scale or timing of a development project demands a more customized zoning approach to achieve a successful phased development.
- (4) This zone is designated for large or complex single or multi-use development that is planned as a single contiguous development under unified control.
- (5) This zone provides greater design flexibility by authorizing modifications of site development requirements.
- (6) The Council retains the legislative authority to determine whether PUD zoning is appropriate regardless of whether the proposed development meets the standards prescribed by this section.
- (7) In return for the flexibility in site design with respect to the arrangement of buildings, heights, setbacks, densities, open space and circulation elements, development under a PUD should provide significant public benefit not achievable through application of a base Zone, including significant affordable housing, greater diversification of land uses, innovation in development, more efficient use of land and energy, exemplary pedestrian amenities, and development patterns compatible in character and design with nearby areas and with the goals and objectives of the Comprehensive Plan.
- (8) A PUD is not intended as a vehicle to solely enhance a proposed development's economic feasibility.

(B) Applicability in the Extraterritorial Jurisdiction.

- (1) A PUD zone may be designated in the City's extraterritorial jurisdiction in accordance with state law.

PUD

- (2) Unless otherwise agreed by the City and the landowners, a planned unit development shall comply with the requirements applicable to a PUD zone in the City's zoning jurisdiction.
- (3) The uses allowed in a PUD zone located in the extraterritorial jurisdiction are the uses described in the planned unit development agreement.

(C) **Baseline for Determining Development Bonuses**

- (1) Unless the council establishes a different baseline, the baseline for determining development bonuses under Subsection (D) is determined by:
 - (a) the regulations of the base zone and overlay zone; and
 - (b) any other applicable site development regulations.
- (2) The director may recommend an alternate baseline for the property. The council may approve the director's recommendation or other baseline it determines is appropriate.
- (3) Any bonus granted under an overlay zone may only be used to determine the baseline if the project complies with the requirements for the bonus and the bonus may be achieved without violating any other applicable site development requirements.
- (4) In the project assessment report, the director shall provide an estimate of the property's baseline entitlements in the project assessment report. If an alternate baseline is recommended by the director, the project assessment report should also include any assumptions used to make the estimate baseline entitlements.

(D) **Development Bonus.** Development in a PUD may exceed the baseline established under Subsection (C) for maximum height, maximum floor area ratio, and maximum building coverage if:

- (1) The application for PUD zoning includes a report approved by the housing director establishing the prevailing level of affordability of housing in the vicinity of the PUD, expressed as a percentage of median family income in the Austin metropolitan statistical area; and
- (2) The applicant complies with the requirements of Division 23-3E-1 (Citywide Affordable Housing Bonus Program).

(E) **Allowed Land Uses and Development Standards**

- (1) The allowed uses, conditional uses, and site development standards for a PUD Zone are established by the ordinance zoning the subject property as a PUD Zone, the accompanying land use plan, and this section. The council may require development phasing or the construction of off-site infrastructure.
- (2) A PUD may not exceed the baseline regulations for maximum height, maximum floor area ratio, and maximum building coverage established under Subsection (C) except as provided in Section (D).
- (3) Unless modified by the ordinance zoning the property as a PUD zone, the property shall comply with all other applicable requirements in this Title.

(F) **Tier 1 Criteria for Approval of a PUD Zone.** An application for a PUD zone designation shall comply with the requirements in this subsection.

- (1) The proposed PUD zone is consistent with the Comprehensive Plan and meets the objectives of the City Code.

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#14

- (2) Provide development standards that achieve equal or greater consistency with the purpose of the PUD zone described in Subsection (A) than development under the regulations in the Land Development Code.
 - (3) Provide a total amount of open space that equals or exceeds 10 percent of the residential tracts, 15 percent of the industrial tracts, and 20 percent of the nonresidential tracts within the PUD, except that:
 - (a) a detention or filtration area is excluded from the calculation unless it is designed and maintained as an amenity; and
 - (b) the required percentage of open space may be reduced for urban property with characteristics that make open space infeasible if other community benefits are provided.
 - (4) Provide a two-star Austin Energy Green Building Rating.
 - (5) Be consistent with applicable neighborhood plans, historic district and landmark standards, and compatible with adjacent property and land uses.
 - (6) Provide for environmental preservation and protection relating to air quality, water quality, trees, buffer zones and greenbelt areas, critical environmental features, soils, waterways, topography, and the natural and traditional character of the land.
 - (7) Provide for public facilities and services that are adequate to support the proposed development including school, fire protection, emergency service, and police facilities.
 - (8) Provide for appropriate transportation and mass transit connections to areas adjacent to the PUD Zone and mitigation of adverse cumulative transportation effects with sidewalks, trails, and roadways.
 - (9) Prohibit gated roadways.
 - (10) Protect, enhance and preserve areas that include structures or sites that are of architectural, historical, archaeological, or cultural significance.
 - (11) Include at least 10 acres of land, unless the property is characterized by special circumstances, including unique topographic constraints.
 - (12) In addition, an applicant may propose additional benefits in support of the PUD Zone application including, but not limited to, reductions in impervious cover, increased volumetric flood detention and drainage upgrades including rainwater harvesting, restoration of riparian vegetation, preservation of all heritage trees, compliance with the City's Great Streets Program or a successor program, installation of public art, or provides for or participates in programs to achieve affordable housing.
 - (13) A PUD containing a retail, commercial, or mixed use development must contain pedestrian-oriented uses as defined in Division 23-4E-7 (Additional General Standards).
- (G) Tier 2 Criteria for Superiority. This section contains criteria for determining the extent to which development proposed for a PUD zone would be superior to that which would occur under conventional zoning and subdivision regulations as required under Subsection (A). A proposed PUD need not address all criteria in this subsection to achieve superiority, and the council may consider any other criteria the council deems appropriate.
- (1) Open Space. Provides open space at least 10 percent above the requirements of Subsection (F)(3).

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23-4D-8110: Planned Unit Development (PUD) Zone

PC Motion #89

In Section 23-4D-8110(F) insert and renumber: (F)(8) exceed the minimum landscaping requirements of the City Code.

In Section 23-4D-8110(G)(2)(c) Delete: ~~Uses green water quality controls as described in the Environmental Criteria Manual to treat at least 50 percent of the water quality volume required by this Title.~~

Direct Staff to find ways to differentiate Tier 1-T3 defining Tree superiority. Direct staff to find a way to require superior standards for Tier 1 and Tier 2 PUDs apart from standard code.

EC Motion #14

In Section 23-4D-8110(F), reinsert the existing Tier 1 requirement that all PUDs must exceed the minimum landscaping requirements of the Code; Delete Subsection 23-4D-8110(G)(2)(c), which is not superior to the GSI requirements proposed in CodeNEXT; modify Subsection 23-4D-8110(G)(2)(m) to remove the references to heritage and protected size trees and keep only the following language: "Preserves 75 percent of all the native caliper inches."

(2) Environment/Drainage

- (a) Complies with current code instead of asserting an entitlement to follow older code provisions by application of law or agreement.
- (b) Provides water quality controls superior to those otherwise required by this Title.
- (c) Uses green water quality controls as described in the Environmental Criteria Manual to treat at least 50 percent of the water quality volume required by this Title.
- (d) Provides water quality treatment for currently untreated, developed off-site areas of at least 10 acres in size.
- (e) Reduces impervious cover by five percent below the maximum otherwise allowed by this Title or includes off-site measures that lower overall impervious cover within the same watershed by five percent below that allowed by this Title.
- (f) Provides minimum 50-foot setback for at least 50 percent of all unclassified waterways with a drainage area of 32 acres.
- (g) Provides volumetric flood detention as described in the Drainage Criteria Manual.
- (h) Provides drainage upgrades to off-site drainage infrastructure that does not meet current criteria in the Drainage or Environmental Criteria Manuals, such as storm drains and culverts that provide a public benefit.
- (i) Proposes no modifications to the existing 100-year floodplain.
- (j) Uses natural channel design techniques as described in the Drainage Criteria Manual.
- (k) Restores riparian vegetation in existing, degraded Critical Water Quality Zone areas.
- (l) Removes existing impervious cover from the Critical Water Quality Zone.
- (m) Preserves all heritage trees; preserves 75 percent of the caliper inches associated with native protected size trees; and preserves 75 percent of all of the native caliper inches.
- (n) Tree plantings use Central Texas seed stock native and with adequate soil volume.
- (o) Provides at least a 50 percent increase in the minimum waterway or critical environmental feature setbacks required by this Title.
- (p) Clusters impervious cover and disturbed areas in a manner that preserves the most environmentally sensitive areas of the site that are not otherwise protected.
- (q) Provides porous pavement for at least 20 percent or more of all paved areas for non-pedestrian in non-aquifer recharge areas.
- (r) Provides porous pavement for at least 50 percent or more of all paved areas limited to pedestrian use.
- (s) Provides rainwater harvesting for landscape irrigation to serve not less than 50 percent of the landscaped areas.
- (t) Directs stormwater runoff from impervious surfaces to a landscaped area at least equal to the total required landscape area.

- (u) Employs other creative or innovative measures to provide environmental protection.
- (3) Austin Energy Green Building. Provides an Austin Energy Green Building Rating of three stars or above.
- (4) Art. Provides art approved by the Art in Public Places Program in open spaces, either by providing the art directly or by making a contribution to the City's Art in Public Places Program or a successor program.
- (5) Great Streets. Complies with City's Great Streets Program, or a successor program.
- (6) Community Amenities
 - (a) Provides community or public amenities, which may include spaces for community meetings, community gardens or urban farms, day care facilities, non-profit organizations, or other uses that fulfill an identified community need.
 - (b) Provides publicly accessible multi-use trail and greenway along creek or waterway.
- (7) Transportation. Provides bicycle facilities that connect to existing or planned bicycle routes or provides other multi-modal transportation features not required by code.
- (8) Building Design. Exceeds the minimum points required by Division 23-4E-8 (Building Design Standards).
- (9) Parking Structure Frontage. In a commercial or mixed-use development, at least 75 percent of the building frontage of all parking structures is designed for pedestrian-oriented uses as defined in Section 23-4D-9130 (Waterfront Overlay Zone) in ground floor spaces.
- (10) Affordable Housing. Provides for affordable housing or participation in programs to achieve affordable housing described in Subsection (D)(2) and Article 23-3E (Affordable Housing).
- (11) Historic Preservation. Preserves historic structures, landmarks, or other features to a degree exceeding applicable legal requirements.
- (12) Accessibility. Provides for accessibility for persons with disabilities to a degree exceeding applicable legal requirements.
- (13) Local Small Business. Provides space at affordable rates to one or more independent retail or restaurant small businesses whose principal place of business is within the Austin metropolitan statistical area.
- (H) **Additional Standards.** In addition to the requirements contained in this subsection, a PUD containing a retail, commercial, or mixed use development must:
 - (1) comply with the sidewalk requirements in Section 23-9E-5050 (Sidewalk Requirements) and building design requirements of Division 23-4E-8 (Building Design Standards);
 - (2) pay the tenant relocation fee established under Section 23-3E-3050 (Tenant Relocation Assistance - Developer Funded), if approval of the PUD would allow multi-family redevelopment that may result in tenant displacement; and
 - (3) contain pedestrian-oriented uses, as defined in Division 23-13A-1 (Terms), on the first floor of a multi-story commercial or mixed use building.

(I) **General Procedures**

- (1) **Compliance Required.** An applicant who seeks to designate property as a PUD Zone must demonstrate that the proposed development complies with this section.

(2) **Pre-Application Filing Procedures**

- (a) Development Assessment Report.
- (i) Before a person may submit an application for a PUD zone, the applicant must request a development assessment that complies with Section 23-2B-2050 (Development Assessment).
 - (ii) Not later than the 11th day after the assessment is issued, the director shall mail notice of the assessment to the Neighborhood Plan Contact Team and those entitled to notice under Section 23-2C-5020 (Notice of Administrative Decision).
- (b) Council Hearing.
- (i) The director must present the development assessment at a council meeting and make recommendations regarding the requirements in Subsections (F) and (G) and any other applicable requirements or criteria.
 - (ii) Not later than the 11th day before the date of the council meeting, the director shall mail notice of the meeting to those entitled to receive notice of the development assessment.
- (c) Council Response. The council or individual council members may supplement or respond to the recommendation of the planning director with comments identifying issues that should or must be addressed during subsequent review and consideration of the application. A comment does not obligate council members to vote for or against approval of the proposed PUD Zone.
- (d) Fee Credit. The planning director shall credit the fee for the development assessment toward the zoning application fee if the zoning application is filed not later than one year after the applicant receives the development assessment report.
- (e) After the council provides comments on the development assessment, the applicant may submit an application to zone or re-zone the property to a PUD zone that complies with Article 23-4B (Zoning Administration and Procedures).

(3) **Application and Approval Procedures**

- (a) An application to zone or re-zone a property to a PUD zone shall be filed and processed under Article 23-2B (Application Review and Fees). The application must include:
- (i) a land use plan;
 - (ii) the required fee;
 - (iii) the proposed site development regulations;
 - (iv) the baseline for determining development bonuses;

- (v) a description of any bonuses requested and the manner in which the bonus requirements are to be satisfied;
 - (vi) requested waivers from or modifications to the requirements of this Title; and
 - (vii) any other information required by the director.
- (b) An application to re-zone to a PUD Zone shall be reviewed under Division 23-4B-3 (Zoning Map Designations and Amendments).
- (c) Review Authority
 - (i) Land Use Commission hearing and recommendation. The Land Use Commission shall hold a noticed public hearing to consider the application. The Commission shall recommend to the council either approval, conditional approval, or disapproval of the application.
 - (ii) Council hearing and decision. The council shall hold a noticed public hearing to consider the application and the Commission's recommendation. The council shall by ordinance approve subject to conditions or deny the application. The director shall notify the applicant in writing of the council's decision.
 - (iii) The proposed development must comply with the standards of this Title, except that the council may waive or modify a standard if the PUD ordinance identifies the waiver or modification; and the council finds that the resulting development would achieve greater consistency with the purpose enumerated in Subsection (B) than development that would occur without the waiver or modification; the adverse effects of the waiver or modification are offset by other enforceable standards; and the objective of the waived or modified standard is substantially achieved.
- (d) Application Review and Approval
 - (i) Concurrent consideration of development applications. A preliminary plan or final plat may be processed concurrently with an application requesting a PUD Zone classification for a property.
 - (ii) Approval. A preliminary subdivision plan, final plat, site plan or building required to develop property subject to a PUD zone must comply with the land use plan associated with the PUD zone.
 - (iii) Director's report. The planning director's report on a development application considered by the Land Use Commission or council must include a determination of whether the application complies with the standards of the land use plan.
- (4) **Land Use Plan Expiration and Amendment**
 - (a) Expiration. A land use plan does not expire unless the property is rezoned to a zone other than PUD.

- (b) Substantial Amendment. A substantial amendment to a land use plan is a rezoning of the affected portion of the PUD Zone and requires council approval. The following are substantial amendments:
 - (i) adding a land use that is more intense than the existing allowed uses, which includes an increase in residential density or the addition of a multi-family use along the periphery of the development;
 - (ii) amending a site development standard;
 - (iii) increasing the intensity of a land use adjacent to a platted single-family residential tract;
 - (iv) amending a condition of approval of the PUD Zone;
 - (v) increasing land use intensity in a phase of development of the PUD without decreasing land use intensity an equivalent amount in the phase of development;
 - (vi) shifting development intensity in a manner that results in an "E" or "F" level of service on a roadway segment or intersection included in the traffic impact analysis for the PUD Zone; and
 - (vii) amending a phasing schedule to establish a non-residential land use before establishing the residential development supported by the non-residential use.
- (c) Approval by Director. The planning director may approve an amendment to a land use plan that is not a substantial amendment described in Subsection (I)(4)(b).
 - (i) An applicant must submit a proposed amendment to the planning director with an application for approval of a site plan.
 - (ii) The planning director's decision on an amendment may be appealed to the Land Use Commission, and the Land Use Commission's decision may be appealed to the council under Article 23-2I (Appeals).
- (d) Rezoning If Development Applications Expire or Are Not Approved. The director must request council initiate the rezoning of property in a PUD zone if:
 - (i) a preliminary plan or site plan for a portion of the property is not approved within three years after the effective date of the ordinance approving the PUD zone for the property; or
 - (ii) an approved preliminary plan or site plan expires.

Division 23-4D-9: Overlay Zones

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23-4D-9010 Purpose

This division establishes the land use and building form requirements for property subject to an overlay zone. The requirements implement the Comprehensive Plan and are intended to ensure that proposed development is compatible with existing and future development on neighboring properties. Additionally, the requirements are intended to produce an environment of desirable character, consistent with the Comprehensive Plan and any applicable area plan.

23-4D-9020 Applicability

- (A) The requirements in this division apply to a lot subject to an overlay zone.
- (B) A use allowed in an overlay zone is subject to this division, applicable requirements within this article, and any applicable requirements within Article 23-4E (Supplemental to Zones).
- (C) If this division is silent on a requirement, the applicable zone in this article or Article 23-4E (Supplemental to Zones) applies.
- (D) In addition to the requirements included within this division, this article, and Article 23-4E (Supplemental to Zones), a lot or use may also be subject to additional provisions in the Title.
- (E) Failure to include a specific provision in this section or anywhere else in this division does not exempt the lot or use from complying with the provision.

23-4D-9030 Airport Overlay Zone

See Chapter 23-12 (Airport Hazard and Compatible Land Use).

23-4D-9040 Barton Springs Overlay Zone

(A) Purpose and Applicability

- (1) The purpose of the Barton Springs Zone (BSZ) Overlay Zone is to preserve the natural beauty of the Hill Country, protect the image and character of the neighborhoods in the zone, and reduce the negative effects of urbanization by restricting the scale and intensity of retail development.
- (2) The BSZ Overlay Zone applies to all property and uses within the Barton Springs Zone, as described in Section 23-3D-1030 (Descriptions Of Regulated Areas), except as provided in Subsection (B) below.

(B) Exceptions

- (1) This section does not apply to a retail use described in Subsection (B)(2) on property that is:
 - (a) Subject to a settlement agreement, which was adopted by the council before December 6, 2003, that prescribes development regulations;
 - (b) Zone as a Planned Unit Development before December 6, 2003; or
 - (c) Subject to a site plan approved as a condition of zoning before December 6, 2003.
- (2) The following uses exempt from the standards of this section include:
 - (a) Alcohol sales;
 - (b) Animal service/boarding, level 1;
 - (c) Animal service/boarding, level 2;
 - (d) Automobile repair;
 - (e) Automobile sales, rental, and storage;
 - (f) Commercial services and repair;
 - (g) Food sales;
 - (h) Funeral/mortuary homes;
 - (i) Gas station;
 - (j) General retail;
 - (k) General retail with outside storage;
 - (l) General retail with on site production;
 - (m) Heavy equipment sales;
 - (n) Library, museum, or public art gallery;
 - (o) Personal services, restricted;
 - (p) Recreational and sports vehicle sales, rental, and storage;

- (q) Restaurant, drive-through;
- (r) Restaurant, with or without alcohol sales; or
- (s) Special historic use.

(C) **Gross Floor Area**

- (1) Except as provided in Subsection (C)(2) of this subsection, a principal retail use and its accessory uses may not exceed 50,000 square feet.
- (2) A principal food sales use and its accessory uses may not exceed 100,000 square feet of gross floor area.
- (3) A principal retail use that exceeded 50,000 square feet on December 16, 2003 may be changed to another retail use if the existing impervious cover and gross floor area are not increased.
- (4) A use that exceeded the limitations in Subsection (C)(1) on December 16, 2003, may be expanded one time if the expansion is on the same lot and the expansion does not increase the required off-street parking to more than 120 percent of that required for the use on the later of:
 - (a) March 1, 1984; or
 - (b) The date the use became nonconforming

23-4D-9050 Capitol Dominance Overlay Zone

(A) **Purpose and Applicability**

- (1) The purpose of the Capitol Dominance (CD) Overlay Zone is to protect the visual and symbolic significance of the State Capitol.
- (2) This overlay zone keeps a building that is located in close proximity to the Capitol from dominating the Capitol.
- (3) The CD Overlay Zone applies to all property in a one-quarter mile radius of the State Capitol dome.

(B) **Height Limits.** The maximum height of a structure is the lesser of:

- (1) The base zone maximum height; or
- (2) A height that coincides with the 653 foot elevation above sea level, plus 0.04366 feet of height for each foot horizontally that the measurement point is separated from the center of the Capitol dome.

23-4D-9060 Capitol View Corridor Overlay Zone

(A) Purpose and Applicability

- (1) The purpose of the Capitol View Corridor (CVC) Overlay Zone is to preserve the view of the State Capitol Building by limiting the height of structures located within capitol view corridors.
- (2) The CVC Overlay Zone applies to all property in the capital view corridors described in Section 23-4D-9150 (Overlay Zone Boundaries Described).

(B) Height Limits

- (1) The maximum height allowed is the lesser of the base zone or the elevation of the height plane delineating the corridor.
- (2) Section 23-4E-7050 (Encroachments Above Maximum Height) does not apply to a property located within the Capitol View Corridor Overlay Zone.

23-4D-9070 Downtown Civic Spaces Overlay Zone

(A) Purpose and Applicability

- (1) The Downtown Civic Spaces (DCS) Overlay Zone protects the unique character, pedestrian accessibility, use of downtown civic spaces, including parks, creeks, and historic thoroughfares.
- (2) This overlay zone applies to property zoned Commercial Center (CC) or Downtown Core (DC) that is located:
 - (a) Within 60 feet of Congress Avenue between Cesar Chavez and 11th Street;
 - (b) Between the alleys and the extension of the alley lines on each side and parallel to East 6th Street from IH-35 to Congress Avenue; and
 - (c) Within the area bound by Martin Luther King, Jr. Boulevard to the north, IH-35 to the east, Lady Bird Lake to the south, and Lamar Boulevard to the west and:
 - (i) Within 60 feet of the centerline of a creek; or
 - (ii) Within 60 feet of a public right-of-way that surrounds a park.

(B) Development Standards

(1) Glazing

- (a) The glass used on the first floor of a structure must have a visible transmittance rating of 0.6 or higher.
- (b) Reflective surface building materials are prohibited.

(2) Parking

- (a) A surface parking lot, curb cut, or unscreened garage opening is prohibited.
- (b) The Land Use Commission may waive the prohibition in Subsection (B)(2)(a) if it determines that:
 - (i) Compliance with the prohibition is impractical;
 - (ii) The proposed development will not unreasonably impair pedestrian or vehicular movement; and
 - (iii) Adequate precautions have been made for public safety, convenience, and the aesthetic values of the overlay zone.

(3) Height

- (a) Along East 6th Street between the eastern side of Brazos Street and IH-35, a structure may not exceed 45 feet in height.
- (b) Along Congress Avenue within 60 feet of Congress Avenue, a structure shall be at least 30 feet but not more than 90 feet in height.
- (c) Within 60 feet of the public right-of-way adjacent to a park, a structure may not exceed 120 feet in height.
- (d) Within 60 feet of the center of a creek, a structure may not exceed 60 feet in height.

- (4) Additional Requirements.** At least one entrance to a new development that is located within 60 feet of the public right-of-way adjacent to a park shall face the park unless the new development is located diagonally across an intersection from the park.

23-4D-9080 Downtown Plan Overlay Zone**(A) Purpose and Applicability**

- (1) The Downtown Plan (DP) Overlay Zone protects the unique character and pedestrian accessibility and use of downtown.
- (2) This overlay zone applies to a property zoned Commercial Center (CC) or Downtown Core (DC) that is located within the area bound by:
 - (a) Martin Luther King, Jr. Boulevard to the north
 - (b) IH-35 to the east;
 - (c) Lady Bird Lake to the south; and
 - (d) Lamar Boulevard to the west.
- (3) The requirements of this section control in the event of a conflict.

(B) Boundaries Defined

- (1) Red River Live Music Subdistrict is defined as properties along the 600-900 blocks of Red River Street.
- (2) Pedestrian Activity Street. Within a DP Overlay Zone, pedestrian activity streets are:

- (a) West 4th Street between Lavaca and Congress Streets;
- (b) Colorado Street between 2nd and 5th Streets;
- (c) Congress Avenue between Cesar Chavez and 11th Streets; and
- (d) East 6th Street between Congress Avenue and IH-35.
- (e) 2nd Street between Shoal Creek and Trinity Street.
- (f) Sabine Street between 4th Street and 7th Street.
- (g) Waller Creek between Cesar Chavez Street and 7th Street.

(C) Ground Floor Use Requirements

- (1) **Minimum Use Requirements.** The ground floor of a building on a lot subject to the DP Overlay Zone shall comply with the minimum uses established in Table (A) (Minimum Use Requirements).

Table 23-4D-9080(A) Minimum Use Requirements		
Street Type	Percent of Ground Floor Area	Allowed Uses ¹
Pedestrian Activity ²	75%	Commercial Group A Civic Uses
All Other Streets	60%	Commercial Group B Civic Uses Residential Uses

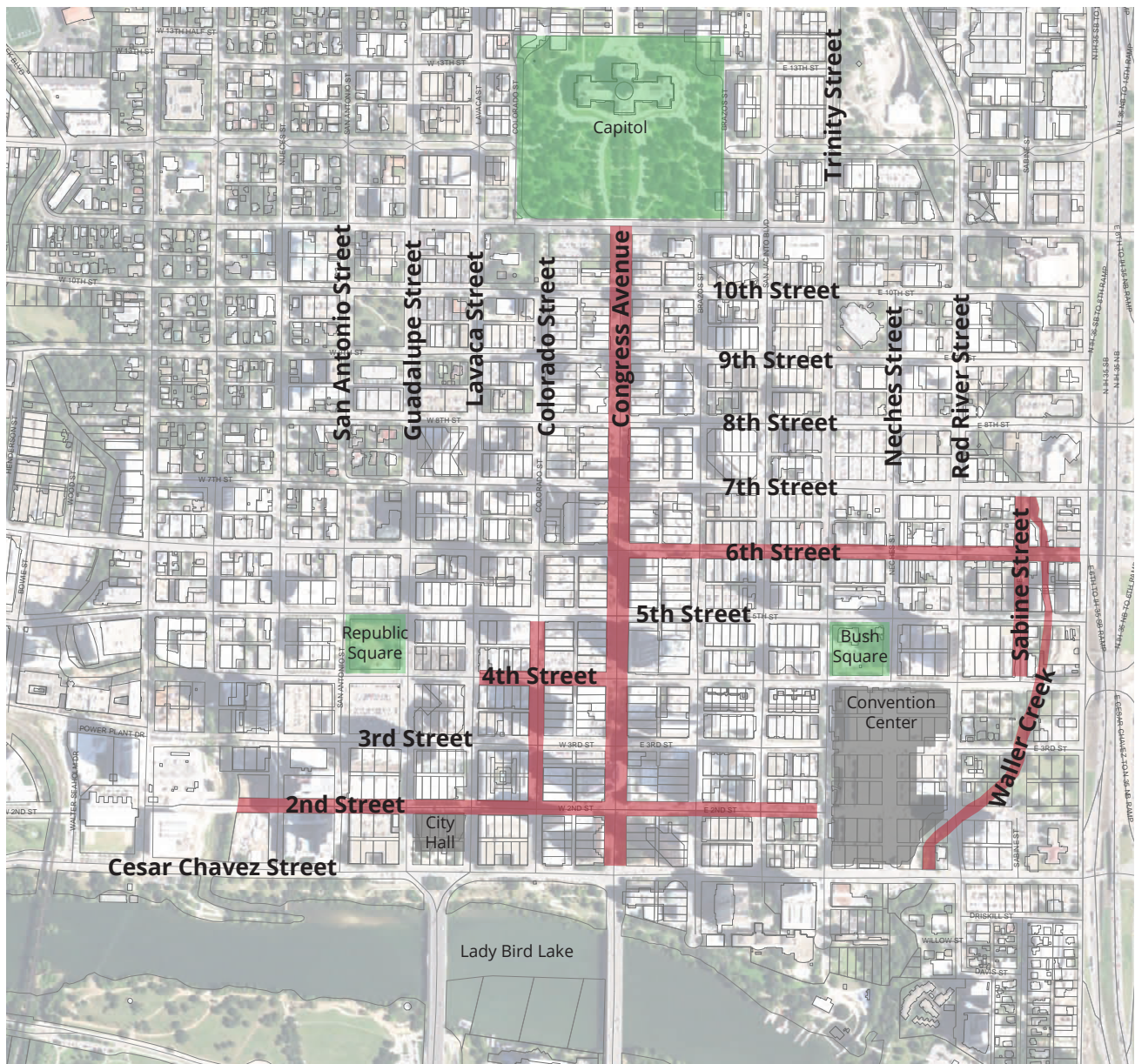
Notes

¹ Defined in Subsection (C)(2) for description of allowed uses.

¹ Identified in Subsection (B)(2) and shown on Figure (1).

- (2) **Allowed Uses.** Table (B) (Allowed Uses) defines the uses described in Table (A).

Table 23-4D-9080(B) Allowed Uses	
Use Category	Uses
Commercial Group A	Alcohol sales
	Bar/nightclub
	Business and Financial/Professional services
	Food sales
	General retail
	Hotel-motel
	Performance Venue/Theater
	Personal services
	Library, Museum, or Public Art Gallery
	Restaurant
	Studio, art, dance, martial arts, and music



Key for Diagram ■ Pedestrian-Oriented Area

Figure 23-4D-9080(1) Pedestrian Activity Street

Table 23-4D-9080(B) Allowed Uses	
Use Category	Uses
Commercial Group B	Commercial Group A Animal Service/Boarding, Level 1 Commercial food preparation Commercial services and repair Day Care Office, General (Non-Medical) Recreation, Indoor
Civic and Public Assembly	All uses within the civic and public assembly use category.
Residential	All residential uses allowed in the base zone.

(D) Development Standards

- (1) **Driveways, Curb Cuts, and Porte Cocheres.** A driveway, porte-cochere, or curb cut is prohibited on a pedestrian activity street.
- (2) **Treatment of Commercial Building Fronts**
 - (a) Glazing and Shade. A commercial building shall comply with the requirements established in Table (C) (Treatment of Commercial Building Fronts).

Table 23-4D-9080(C) Treatment of Commercial Building Fronts		
Street Type	Minimum Glazing ^{1,2}	Minimum Shade ³
Pedestrian Activity	60%	75%
All Other	40%	50%
Notes		
¹ Minimum percent glazing of ground wall surface area, as measured between 2 and 10 feet above grade.		
² Glass used on the first floor of a structure must have a visible transmittance rating of 0.6 or higher. Reflective surfaces are prohibited.		
³ Minimum percent of building frontage with shelter and shade devices, including awning and canopy. A shade devices may not project more than eight feet into right-of-way.		

(3) Treatment of New Residential Building Fronts

- (a) The living space in a ground-level residential use shall be separated from public sidewalk or trail by the greater of:
 - (i) A building setback of five or more feet, or
 - (ii) The required street front setback.
- (b) A living space at ground-level shall be at least 18 inches but not more than 60 inches above the adjacent sidewalk grade.

(4) Setbacks**(a) Front Setbacks**

- (i) Minimum front setback requirements for the DP Overlay Zone are established by Figure (2).
- (ii) Except as provided in Subsection (D)(4)(a)(i), a property subject to the DP Overlay Zone shall comply with the maximum front setback required for that property's base zone.

(b) Exceptions. The maximum setback requirements for the base zone do not apply to:

- (i) Property zoned as a Historic Landmark (H) or Historic District (HD) Overlay Zone;
- (ii) Property designated as a historic landmark by the state or federal government;
- (iii) Property located in a National Register Historic District established by the federal government;
- (iv) Application for remodeling of or addition to an existing structure;
- (v) Restoration of a damaged structure within one year of the date of damage;
- (vi) A site plan for a change of use;
- (vii) Property located in the area bounded by Seventh Street from San Antonio Street to Shoal Creek, Shoal Creek from Seventh Street to Fifteenth Street, Fifteenth Street from Shoal Creek to West Avenue, West Avenue from Fifteenth Street to Martin Luther King, Jr. Boulevard, Martin Luther King, Jr. Boulevard from West Avenue to San Antonio Street, San Antonio Street from Martin Luther King, Jr. Boulevard to Eleventh Street, Eleventh Street from San Antonio Street to Guadalupe Street, Guadalupe Street from Eleventh Street to Tenth Street, Tenth Street from Guadalupe Street to San Antonio Street, and San Antonio Street from Tenth Street to Seventh Street; or
- (viii) The uses outlined in Table (D) (Allowed Uses), below.

Table 23-4D-9080(D) Allowed Uses**Use**

Local Utilities

Major Utilities

Performance Venue/Theater - Outdoor

Public Safety Facilities

Recreation - Outdoor, Formal

Recreation - Outdoor, Informal

Religious Assembly

Stables

Transitional and Supportive Housing

Transit Terminal

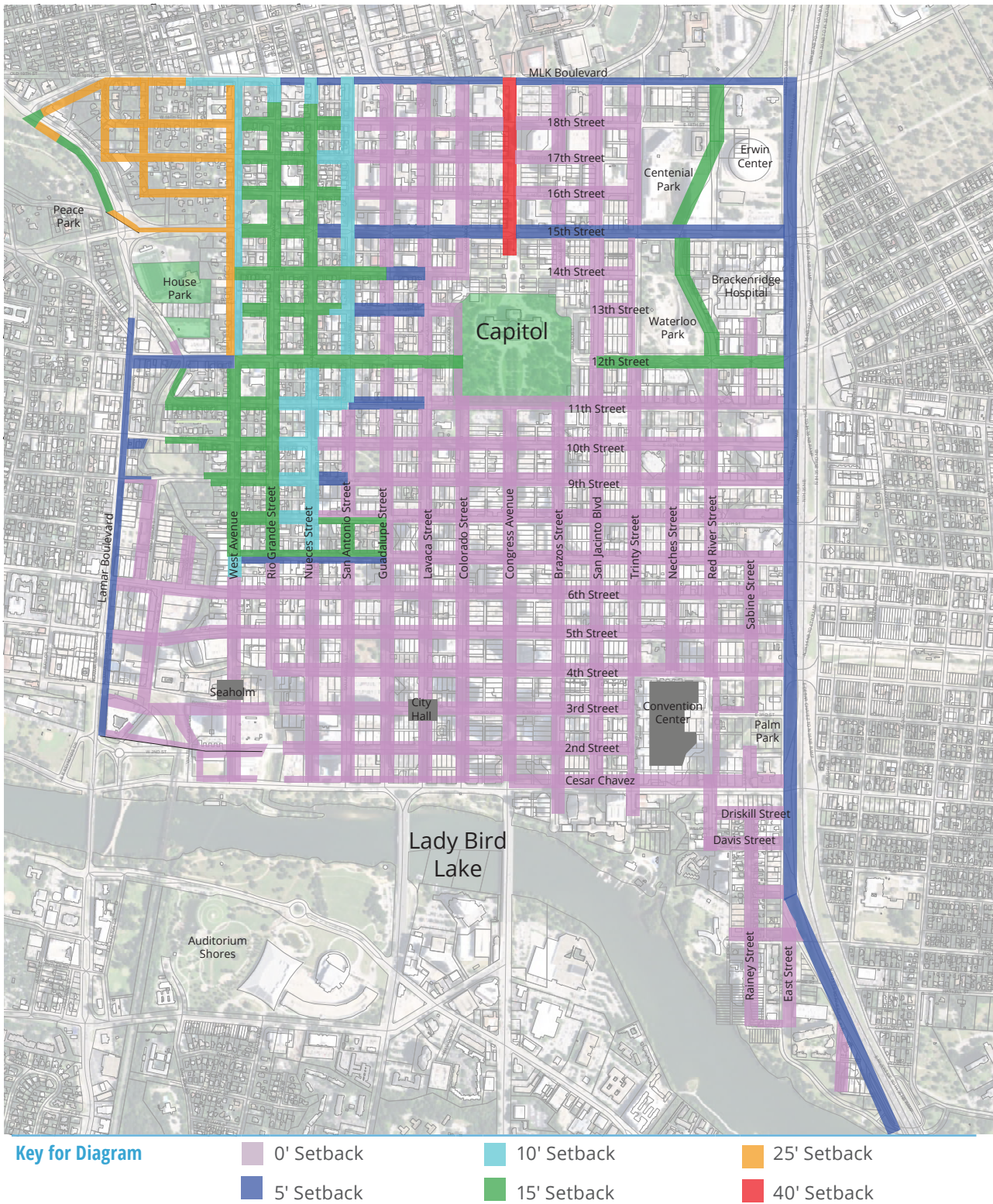


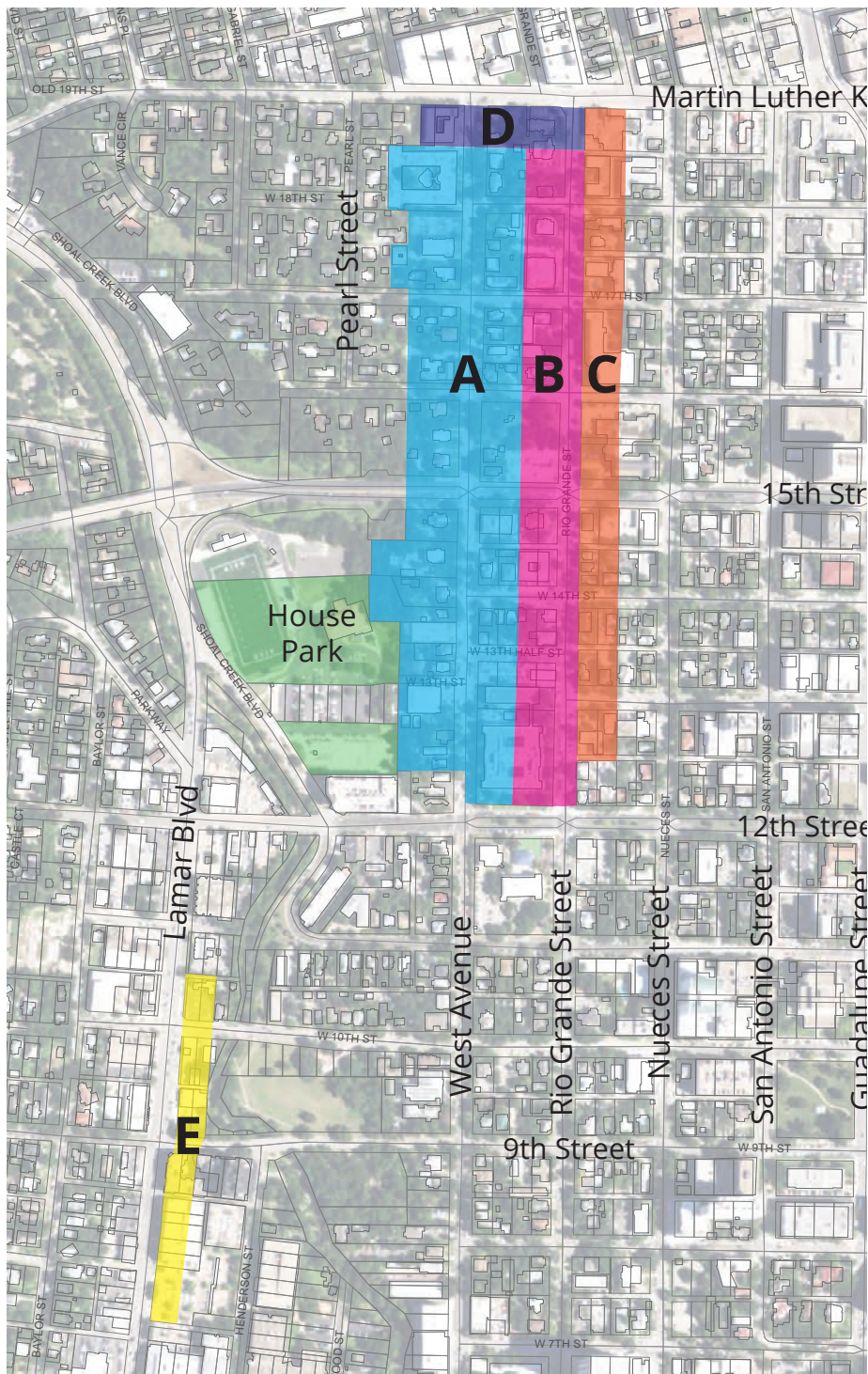
Figure 23-4D-9080(2) Minimum Front Setback Requirements

(E) Compatibility Standards

- (1) **Applicability.** Five subareas within the downtown area are subject to compatibility requirements. These subareas are demonstrated in Figure (3) (Compatibility Requirements Subarea Map).
 - (a) **West Avenue.** A property located on West Avenue between one property north of 12th Street to one half block south of Martin Luther King, Jr. Boulevard.
 - (b) **West Side of Rio Grande Street.** A property located on the west side of Rio Grande Street between 12th Street to one half block of South Martin Luther King, Jr. Boulevard.
 - (c) **East Side of Rio Grande Street.** A property located on the east side of Rio Grande Street between one property north of 12th Street to Martin Luther King, Jr. Boulevard.
 - (d) **Martin Luther King, Jr. Boulevard.** A property located on Martin Luther King, Jr. Boulevard between a half block west of West Avenue eastward to half block between Rio Grande Street.
 - (e) **Lamar Boulevard.** A property located on Lamar Boulevard between Old 7th Street right-of-way and a half block north of 10th Street.
- (2) **Compatibility Standards.** The base zone setbacks and height requirements for property located within a subarea are modified. A property located within a subarea shall comply with the requirements established in Table (E) (Subarea Compatibility Standards).

Table 23-4D-9080(E) Subarea Compatibility Requirements

Subarea	Height (max.)	Setback (min.)		
		Side Street	Side	Rear
West Avenue - not adjacent to a Residential House-Scale Zone	40' or base zone, whichever is less	15'	5'	5'
West Avenue - adjacent to a Residential House-Scale Zone	Within 50', 30'	Base zone	Lot < 20,000 sf, 15'	Lot ≥ 20,000 sf, 25'
West side of Rio Grande Street - not adjacent to a Residential House-Scale Zone	60' or base zone, whichever is less.	15'	5'	5'
West side of Rio Grande Street - adjacent to a Residential House-Scale Zone	Within 15', no build Within 50', 40' Within 100', 50'	--	--	--



Key for Diagram

A West Avenue	C East Side of Rio Grande St	E Lamar Boulevard
B West Side of Rio Grande St	D MLK Boulevard	

Figure 23-4D-9080(3) Compatibility Requirements Subarea Map

Table 23-4D-9080(E) Subarea Compatibility Requirements				
Subarea	Height (max.)	Setback (min.)		
		Side Street	Side	Rear
East side of Rio Grande Street	70' or base zone, whichever is less	Base zone	5'	5'
Martin Luther King, Jr. Boulevard	60'	Base zone	5'	5'
Lamar Boulevard	50' within 85' from Lamar. All else base zone	5'	Base zone	0'

(F) Screening

- (1) Screening Required.** Except for a property used for a major utility facility or a local utility service, a property shall comply with the requirements of this subsection.
 - (a) A trash receptacle, equipment use for air conditioning or heating, loading area, or external storage shall be screened from public view.
 - (b) Equipment located on a roof shall be screened from the view of a person standing on the farthest edge of an adjacent public street, other than an alley. The Development Services Director may waive this requirement if the director finds that screening is not practical.
- (2) Additional Screening Requirements For a Parking Structure**
 - (a) A parking structure shall be designed and constructed to prevent the headlights of an automobile from being directly visible from an adjacent building or a building across a street, other than an alley, from the parking structure.
 - (b) A parking structure shall be designed and constructed to screen automobiles from public view.
 - (c) If a requirement in the Building Code related to an open parking garage conflict with a requirement of this subsection, the Building Code requirement controls.
- (3) Surface Parking Facility.** A surface parking facility shall be partially and periodically obscured from the street by landscaping, a berm, a wall, decorative fencing, or another structure.

23-4D-9090 Hill Country Roadway Overlay Zone

- (A) **Purpose.** The Hill Country Roadway Overlay Zone and associated requirements are designed to achieve the following purposes:
- (1) To maintain the rugged natural beauty of the eastern edge of the Texas Hill Country as currently exists along Hill Country Roadways;
 - (2) To encourage development that is compatible with and, whenever possible, enhances natural beauty;
 - (3) To allow people of the City to be able to live, work, and enjoy recreation within the area without reducing its natural beauty;
 - (4) To encourage a safe and efficient traffic flow along Hill Country Roadways;
 - (5) To preserve the environment by providing clean air, clean water, and a greenbelt of natural vegetation and wildlife;
 - (6) To preserve the scenic character of the Hill Country Roadways and, where possible, scenic vistas from the roadways;
 - (7) To encourage only orderly and sensitive development as appropriate in the City's environmentally sensitive watersheds; and
 - (8) To accomplish the preceding goals through thoughtful and cooperative planning to benefit all the people of Austin.
- (B) **Applicability**
- (1) This section applies to development on a property located in a hill country roadway corridor.
 - (2) A hill country roadway corridor is land within the City's zoning jurisdiction located 1,000 feet or less from each side of the right-of-way of the following roadways:
 - (a) Loop 360, from US 290 West to US 183;
 - (b) RM 620, from SH 71 to Anderson Mill Road;
 - (c) RM 2222, from Highland Hills Drive to RM 620;
 - (d) RM 2244, from Loop 360 to SH 71; and
 - (e) Southwest Parkway.
- (C) **Exceptions.** This section does not apply to development that:
- (1) Occurs 1,000 feet or less from the dedicated right-of-way of:
 - (a) US 183; or
 - (b) US 290 West;
 - (2) Complies with a site plan approved by council before January 27, 1986 or to a modification of the approved site plan if a zoning change was approved to allow the modification;
 - (3) Complies with a site plan for which a development permit was issued by the City before January 27, 1986; or
 - (4) Complies with a planned development area agreement approved by the council before January 26, 1986.

(D) Voluntary Compliance

- (1) The applicant of a site on a Hill Country Roadway identified in Subsection (B) that is exempt in compliance with Subsection (C) may file a request with the Planning Director to apply this section to the development.
- (2) The Planning Director shall make written recommendation to the Planning Commission regarding the provisions of this section that the council shall apply or waive. The Planning Director shall take into consideration existing land uses approved for the site in making the recommendation. The Planning Commission shall make a recommendation to the council on a request to apply this section to a development.
- (3) The council shall:
 - (a) Approve the application of the section in its entirety;
 - (b) Approve the application of the section and approve a waiver of certain provisions;
or
 - (c) Deny the application of the section to the development.
- (4) Based on the recommendations of the Planning Director and the Land Use Commission, the minimum extent necessary to allow development to occur is any waiver in Subsection (D)(3)(b).

(E) Hill Country Roadway Corridor Files and Maps. The Planning Director shall maintain a file on each hill country roadway corridor. Each file must contain:

- (1) A contour map of the corridor that shows each proposed or approved land use;
- (2) A copy of each site plan submitted in connection with development in each corridor, whether the site plan was subsequently approved, disapproved, or withdrawn;
- (3) A map that shows each scenic vista or overlook in each corridor that the Planning Director has identified; and
- (4) A map that shows each segment of a hill country roadway along which scenic vistas are prevalent.

(F) Intensity Zones. Table (A) (Hill Country Roadway Intensity Classification) establishes the intensity zone of property based on its location.

Table 23-4D-9090(A) Hill Country Roadway Intensity Classification	
Applicable Intensity Zone	Location
High Intensity	On Loop 360, within 3,500' of the intersection with US 290; or Within 1,000' of the intersection of two intersecting State maintained highways and has frontage on either both highways or one highway and an intersecting arterial or collector street.
Moderate Intensity	Not within a high intensity zone and has frontage on: <ul style="list-style-type: none"> • Loop 350, north of RM 2222 and south of RM 2244; • Loop 360 1,200' or less from Westlake Drive; • RM 2222 east of RM 620 for 2.1 miles; • RM 620 from Comanche Trail to Anderson Mill Road; • RM 620 from Lohman's Crossing to Steward Road; • A segment of a roadway accessible only from an arterial or collector street that is not a hill country roadway; or • A Hill Country Roadway and is within 500' of an intersecting arterial or collector street, excluding the intersection of RM 2222 east of Loop 360.
Low Intensity	Not within a high or moderate intensity zone.

(G) Development Requirements

(1) A property subject to the Hill County Roadway Overlay Zone shall comply with the requirements of this subsection, which are established in the following tables:

- (a) Table (B) (Floor Area Ratio);
- (b) Table (C) (Construction on Slopes);
- (c) Table (D) (Maximum Height);
- (d) Table (E) (Landscape); and
- (e) Table (F) (Vegetative Buffers).

(2) Floor Area Ratio

- (a) If a property or portion of a developed property covered by an approved site plan is condemned for right-of-way and if the development complies with other applicable requirements, the gross square footage permitted before the condemnation is the gross square footage permitted for the portion of the property remaining after the condemnation.
- (b) To calculate allowable floor area under Table (B) (Floor Area Ratio), gross site area includes all land dedicated for right-of-way under Division 23-9B-2 (Right-of-Way and Transportation Improvements) that is more than 60 feet from the centerline of a hill country roadway.

Table 23-4D-9090(B) Floor Area Ratio¹

Slope	Maximum Floor Area Ratio					
	Low Intensity Zone		Moderate Intensity Zone		High Intensity Zone	
	FAR	Far w/ Development Bonus	FAR	FAR w/ Development Bonus	FAR	Far w/ Development Bonus
<15% gradient	0.20	0.25	0.25	0.30	0.30	0.35
≥15% and <25% gradient	0.08	N/A	0.10	N/A	0.12	N/A
≥25% gradient	0.08	N/A	0.05	N/A	0.06	N/A

¹ This table does not apply to property in the Southwest Parkway Hill Country Road Overlay Zone.

- (3) **Construction on Slopes.** Development of property subject to the Hill Country Roadway Overlay Zone shall comply with Section 23-3D-8030 (Construction on Slopes), this subsection, and Table (C) (Construction on Slopes).
- (a) A person who constructs a structure uphill or downhill of a slope shall comply with Table(C) (Construction on Slopes).

Table 23-4D-9090(C) Construction on Slopes

Structure uphill of ≥15% gradient	Pier and beam technique to construct the structure is required.
	A vertical wall may not be extended below the lowest finished floor elevation of the structure, except as necessary to screen mechanical equipment.
Structure downhill of ≥15% gradient	8' maximum structural excavation depth.

- (b) To restore a cut or fill for a roadway, driveway, or structure, a person may construct a terraced wall and fill with a finished grade of 100 percent. The wall may not exceed a height of four feet. More than one level of terracing may be constructed.
- (c) If a person does not use terracing to restore a cut or fill, the person must re-vegetate and restore the cut or fill to a slope with a finished gradient of 33 percent.
- (d) A cut or fill restored under Subsection (G)(3)(c) may not exceed eight feet in length. If additional restoration is required, a terrace that complies with Subsection (G)(3)(b) shall be constructed between each eight-foot slope segment.
- (e) A person shall place fill to blend with the natural contour of the slope.
- (4) **Building Height.** Except as provided in Subsection (I) or Article 23-3E (Affordable Housing), a person shall construct a building that complies with the requirements established in Table (D) (Maximum Height).

Table 23-4D-9090(D) Maximum Height	
Location	Height (max.)
200 feet or less from the center line ¹ ; or in a low intensity zone ²	28'
More than 200 feet from the center line ¹ ; and in a moderate intensity zone ²	40'
More than 200 feet from the center line ¹ ; and in a high intensity zone ²	53'
Southwest Parkway roadway corridor	60' or the height allowed in the base zone, whichever is less

¹ Distance from center line of Hill Country Roadway

² Except the Southwest Parkway Roadway

- (5) **Utilities.** Each on-site utility shall be located underground, unless otherwise required by the utility provider.
- (6) **Building Materials**
 - (a) Each building shall be designed to use, to the greatest extent feasible, building materials that are compatible with the environment of the hill country, including rock, stone, brick, and wood.
 - (b) A person may not construct a building that has mirrored glass with reflectance of more than 20 percent.

(H) Landscape

- (1) Development subject to the Hill Country Roadway Overlay Zone shall comply with Table (E)(Landscape).

Table 23-4D-9090(E) Landscape
Native Trees
A site plan must provide a sufficient number of native or small native trees to reasonably compensate for removal of: <ul style="list-style-type: none"> Each small native tree Each native tree with a trunk diameter >6" Each cluster of 3 or more native trees located within 10' to each other with trunk diameters ≥2"
Parking Lot Medians
Minimum 10' wide median - containing existing native trees or dense massing of installed trees between each parking area.
Visual Screening
Screen with existing vegetation or installed landscaping.
Include dense massing of trees, native understory vegetation, shrub massing, or berms.
Allow for topographic changes.

(2) Roadway Vegetative Buffer Requirements

- (a) Except as otherwise provided in this subsection, vegetation within 100 feet of the dedicated right-of-way may not be cleared, unless the clearing is necessary to provide utilities, access, or multi-use trails located on public land or in a public easement.
- (b) If vegetation in an area in which clearing is prohibited has been substantially disturbed, revegetation with native trees, shrubs, and grasses is required.
- (c) A maximum of 50 percent of the area in which clearing is prohibited may be used for detention or water quality control or wastewater drain fields.
- (d) See Table (F) (Additional Roadway Vegetative Buffer Requirements) for additional standards.

Table 23-4D-9090(F) Additional Roadway Vegetative Buffer Requirements

Requirement	Within Southwest Parkway ¹	Other Transportation Plan-Identified Corridors
Building Placement	A building must be at least 75' from the dedicated right-of-way or drainage easement.	A building must be at least 50' from the dedicated right-of-way or drainage easement.
Vegetation Clearing	Vegetation within 50' of the dedicated right-of-way or drainage easement may not be cleared unless to provide utilities and access to the site.	Vegetation within 25' of the dedicated right-of-way or drainage easement may not be cleared, unless the clearing is necessary to provide utilities and access to the site.

Notes

¹ After a public hearing, the council may waive this requirement for a site if the applicant dedicated the right-of-way or a drainage easement to the public at no cost.

- (e) An area described in this section in which clearing is prohibited may not exceed 20 percent of the acreage of an applicant's property.

(3) Natural Area Requirements

- (a) At least 40 percent of a site, excluding dedicated right-of-way, must be left in a natural state. Natural areas within parking medians and in an area in which clearing is prohibited by Subsection (H)(2) count toward this requirement.
- (b) If an area required to be kept in a natural state by this section is revegetated, not more than 25 percent of the area may be used for sewage disposal fields.

(I) **Development Bonus**

- (1) A development bonus approved by the Land Use Commission for a proposed development may:
 - (a) For a property on a slope with a gradient of 15 percent or less, increase floor area ratio as described in Table (B) (Floor Area Ratio); or
 - (b) Increase building height up to:
 - (i) 40 feet in a low intensity zone;
 - (ii) 53 feet in a moderate intensity zone; or
 - (iii) 63 feet in a high intensity zone; or
 - (c) Reduce a required setback by maximum 25 feet or less.
- (2) **Land Use Commission.** The Land Use Commission shall grant a development bonus to a proposed development if the Land Use Commission determines that:
 - (a) An unusual circumstances exists, as defined in Subsection (I)(3);
 - (b) The proposed development as a constructed will comply with at least 50 percent of the criteria identified in Subsection (I)(5).
- (3) An unusual circumstance must involve:
 - (a) An undue hardship caused by this section, or by the cumulative effects of this Title, because of the configuration, topography, or location of the tract;
 - (b) The demonstration of an innovative architectural, site planning, or land use design that:
 - (i) Has not been used in the Austin area before; and
 - (ii) Will serve as an excellent example for a subsequent development; or
 - (c) A condemnation for right-of-way, if a bonus allows the property owner to recapture square footage potential that was lost because of condemnation.
- (4) Notwithstanding Subsection (I)(2)(b), if an unusual circumstance exists, the Land Use Commission may approve a development bonus if the proposed development does not comply with at least 50 percent of the criteria in Subsection (I)(5).
- (5) **Criteria.** In determining whether to approve a development bonus for a proposed development, the Land Use Commission may consider criteria that reasonably relate to the development bonus, including if the proposed development:
 - (a) Preserves a scenic vista and provides a place where the public can view the scenic vista;
 - (b) Limits access to a roadway that is not a Hill Country Roadway if use of the roadway does not increase traffic in a residential area;
 - (c) Increases landscaping or a setback by more than 50 percent above the amount required for the development or increases a natural area;
 - (d) Is a mixed-use development, particularly a mixed-use development that includes a residential use and a community facility;
 - (e) Reduces building mass by breaking up buildings;

- (f) Uses pervious pavers although the development is not entitled to receive an impervious cover credit;
 - (g) Consolidates small lots to create a parcel that has at least 300 feet of frontage on a Hill Country Roadway;
 - (h) Uses pitched roof design features;
 - (i) Includes the construction or dedication of a public facility that is not required by a City ordinance, including a park, roadway and right-of-way, police department site, fire department site, emergency medical services facility site, or a regional drainage facility;
 - (j) Limits the construction of a building or parking area to an area with a slope that has a gradient of not more than 15 percent;
 - (k) Uses an energy-conserving or a water-conserving device that reduces energy or water consumption below City requirements; or
 - (l) Reduces by at least 15 percent the amount of impervious cover otherwise required for the development.
- (6) **Appeals.** Decisions of the Land Use Commission may be appealed to the council under Article 23-2I (Appeals).

23-4D-9100 Historic Landmark and Historic District Overlay Zones

(A) Purpose and Applicability

- (1) The purpose of a Historic Landmark (H) Overlay Zone is to protect, enhance, and preserve individual structures or sites that are of architectural, historical, archaeological, or cultural significance.
- (2) The purpose of a Historic District (HD) Overlay Zone is to protect, enhance, and preserve areas that include structures or sites that are of architectural, historical, archaeological, or cultural significance.
- (3) The H and HD Zones apply to all historic sites, structures, or areas designated under this section.

(B) Contributing Structures

- (1) A contributing structure is one that contributes to the historic character of a Historic District (HD) Overlay Zone, was built during the period of significance for the zone, and which substantially retains its appearance.

- (2) An altered structure may be considered a contributing structure if the alterations are minor and the structure contributes to the overall visual and historic integrity of the zone.
- (3) A structure is designated as a contributing structure by the ordinance establishing the HD Overlay Zone.

(C) Limits on Applications for Historic Designation

- (1) The Historic Landmark Commission may consider no more than a total of three applications per month for an H Overlay Zone designation.
- (2) The Historic Landmark Commission may consider no more than one application per month for an H Overlay Zone designation of property located in any National Register or Local Historic District, unless there would otherwise be fewer than a total of three applications for an H Overlay Zone designation considered in that month.
- (3) Limitations in Subsections (C)(1)-(2) of this section do not apply to applications initiated by the Historic Landmark Commission in response to a request for a demolition or relocation permit.

(D) Designation Criteria for H and HD Overlay Zones

- (1) The council may designate a structure or site as an H Overlay Zone if the property:
 - (a) Is at least 50 years old and represents a period of significance of at least 50 years ago, unless the property is of exceptional importance as defined by National Register Bulletin 22, National Park Service (1996);
 - (b) Retains a high degree of integrity, as defined by the National Register of Historic Places, that clearly conveys its historical significance by retaining a high degree of integrity, as defined by the National Register of Historic Places, and does not include an addition or alteration which has significantly compromised its integrity; and
 - (c) Is at least 50 years old and represents a period of significance ending at least 50 years ago, and is individually listed in the National Register of Historic Places; or is designated as a Recorded Texas Historic Landmark, State Antiquities Landmark, or National Historic Landmark; or demonstrates significance in at least two of the following categories:
 - (i) Architecture. The property embodies the distinguishing characteristics of a recognized architectural style, type, or method of construction; exemplifies technological innovation in design or construction; displays high artistic value in representing ethnic or folk art, architecture, or construction; represents a rare example of an architectural style in the City; serves as an outstanding example of the work of an architect, builder, or artisan who significantly contributed to the development of the City, state, or nation; possesses cultural, historical, or architectural value as a particularly fine or unique example of a utilitarian or vernacular structure; or represents an architectural curiosity or one-of-a-kind building. A property located within a local historic district is ineligible to be nominated for landmark designation in compliance with the criterion for architecture, unless it possesses exceptional significance or has a separate period of significance;

- (ii) **Historical Associations.** The property has longstanding significant associations with persons, groups, institutions, businesses, or events of historic importance which contributed significantly to the history of the City, state, or nation; or represents a significant portrayal of the cultural practices or the way of life of a definable group of people in a historic time;
 - (iii) **Archeology.** The property has, or is expected to yield, significant data concerning the human history or prehistory of the region;
 - (iv) **Community Value.** The property has a unique location, physical characteristic, or significant feature that contributes to the character, image, or cultural identity of the City, a neighborhood, or a particular group; or
 - (v) **Landscape Feature.** The property is a significant natural or designed landscape or landscape feature with artistic, aesthetic, cultural, or historical value to the City.
- (2) The council may designate an area as a HD Overlay Zone if at least 51 percent of the primary structures within the proposed zone boundary are contributing to the historic character of the zone when the historic preservation officer certifies that the zoning or rezoning application is complete;
 - (3) The council may modify the proposed boundaries of a historic district to either expand or decrease the size of the district if the modification addresses the purpose of the overlay zoning as noted in Section (A), and the district is no smaller than one block face.

(E) Application Requirements

- (1) An application to designate a structure or site as an H or HD Overlay Zone must demonstrate that the structure, site, or area satisfies the criteria for designation and includes the information required by administrative rule.
- (2) A record owner or the record owner's agent filing an application for an applicant-initiated H Overlay Zone designation must affirm that no person involved in the matter was or will be compensated on a contingent fee basis or arrangement.
- (3) Before action on an application for HD Overlay zoning, the historic preservation officer shall forward a preservation plan, submitted as part of an application for a HD Overlay Zone, to the Austin Energy Green Building (or successor) program for review and written recommendations. These recommendations must address the opportunity to incorporate sustainable elements listed in Subsection (H)(3). The recommendations must be provided to all boards, commissions, and council before public hearing and action on the application.
- (4) An application for a HD Overlay is complete when the historic preservation officer certifies that the owners of at least 51 percent of the land or 51 percent of the record owners have signed a petition in favor of the creation of the historic district and all other required materials are submitted.

(F) Historic Landmark Commission Public Hearing, Review, and Recommendation

- (1) **Hearing Required.** The Historic Landmark Commission shall hold a public hearing that complies with Article 23-2D (Public Hearings) on a zoning or rezoning application that requests designation, amendment, or removal of a Historic Landmark Overlay Zone or Historic District Overlay Zone

- (2) **Notice.** The Planning Director shall give notice of the public hearing under Section 23-2C-4020 (Type 1). The Planning Director shall also provide notice of the public hearing by posting signs as required by Section 23-2C-3040 (Notification Signs).
- (3) **Review.** The Historic Landmark Commission shall review an application for an H or HD Overlay Zone using the criteria established in Subsection (D).
- (4) **Recommendation**
 - (a) The Historic Landmark Commission shall make a recommendation to the Land Use Commission on a zoning or rezoning application governed by this section not later than the 14th day after the Historic Landmark Commission closes the public hearing on the application.
 - (b) The Planning Director shall forward the recommendation of the Historic Landmark Commission to the Land Use Commission and the council.
- (5) **Contents.** If the Historic Landmark Commission recommends designation of an H or HD Overlay Zone, it shall send a recommendation to the Land Use Commission and the council that includes:
 - (a) A statement of the reasons for recommending designation of the zone;
 - (b) A legal description of the boundary of the zone;
 - (c) Maps, photographs, and histories of the structures, sites, or areas located in the zone as required by administrative rule;
 - (d) Findings that support the criteria for designating the zone and that establish the importance of the zone; and
 - (e) For a HD Overlay Zone, a historic district preservation plan, as described in Subsection (H)(2), and list of designated contributing structures as described in Subsection (B).

(G) Land Use Commission Recommendation and Council Decision

- (1) **Land Use Commission Review and Recommendation.** Following the Historic Landmark Commission recommendation on an application for an H or HD Overlay Zone, the Land Use Commission shall review and make recommendation to the council.
- (2) **Hearing and Notice.** The Land Use Commission shall hold a public hearing under Article 23-2D (Public Hearings) and the Planning Director shall give notice of the public hearing under Section 23-2C-4020 (Type 1).
- (3) **Decision.** Following Land Use Commission recommendation on an application for an H or HD Overlay Zone the council shall hold a hearing and make a decision on the zoning or rezoning application under Division 23-4B-3 (Zoning Map Amendments).

(H) HD Overlay and Preservation Plan Standard

- (1) An ordinance zoning or rezoning property as an HD Overlay Zone must:
 - (a) Describe the character-defining features of the zone;
 - (b) Include a plan to preserve those features; and

- (c) List the designated contributing structures.
- (2) **Preservation Plan.** A preservation plan may:
 - (a) Modify requirements relating to building setbacks, building height, compatibility, landscaping, parking, or signs; or
 - (b) Prescribe requirements relating to design, scale, or architectural character of, or materials for:
 - (i) The exterior of a contributing structure or a new structure; or
 - (ii) Public facilities, including street lighting, street furniture, signs, landscaping, utility facilities, sidewalks, and streets.
- (3) Consistent with the character-defining features of the zone described in under Subsection (H)(1)(a), a preservation plan proposed under Subsection (H)(2) may allow and encourage applicants to use various external materials and mechanisms to promote sustainability, including but not limited to:
 - (a) Roofing systems;
 - (b) Solar technologies;
 - (c) Energy generation and efficiency;
 - (d) Water collection and reuse;
 - (e) Rain-collection systems;
 - (f) Drought-tolerant landscape;
 - (g) Native and edible landscape; and
 - (h) Gardens.
- (I) **Designation on Zoning Map.** The Planning Director shall add the letter "H" or "HD" as a suffix to the base zone designation on the zoning map to reflect an H or HD Overlay Zone, respectively.
- (J) **Notice of Designation to Tax Appraisal District**
 - (1) The historic preservation officer shall file with the county tax appraisal district a copy of an ordinance zoning property as an H or HD Overlay Zone and notice stating that the council has granted the historic designation.
 - (2) The historic preservation officer shall mail a copy of the notice described in Subsection (J)(1) to the notice applicant by certified mail.
- (K) **Medallions.** With the approval of the applicant, a person may place a medallion approved by the Historic Landmark Commission on a structure or site that is designated as an H Overlay Zone.

23-4D-9110 Lake Austin Overlay Zone

(A) Purpose and Applicability

- (1) The purpose of the Lake Austin (LA) Overlay Zone is to protect the scenic, recreational, and environmental benefits of Lake Austin by restricting the scale and intensity of development near Lake Austin.

- (2) The LA Overlay Zone applies to land within 1,000 feet of the shoreline of Lake Austin, as defined in Division 23-13A-1 (Terms and Measurements) and is:
 - (a) Located within the Lake Austin (LA), Planned Unit Development (PUD) or Rural Residential (RR) Zone on or after June 24, 2014; or
 - (b) Located on a site of one acre or more that is:
 - (i) Comprised of two or more lots aggregated on or after June 24, 2014; and
 - (ii) Zoned or rezoned Residential House-Scale 1A (R1A), Residential House-Scale 1B (R1B), Residential House-Scale 1C (R1C), Residential House-Scale 2A (R2A), Residential House-Scale 2B (R2B), Residential House-Scale 2C (R2C), Residential House-Scale 2D (R2D), Residential House-Scale 2E (R2E), Residential House-Scale 3A (R3A), Residential House-Scale 3B (R3B), Residential House-Scale 3C (R3C), Residential House-Scale 3D (R3D), Residential House-Scale 4A (R4A), Residential House-Scale 4B (R4B), Residential Multi-Unit 1A (RM1A), and Residential Multi-Unit 1B (RM1B).
- (B) In the event of a conflict, the regulations applicable to a Planned Unit Development (PUD) zoning district control over the regulations prescribed in this section.
- (C) The official map of the Lake Austin Overlay district is on file with the Planning Director, which shall resolve any uncertainty regarding the boundary of the zone.
- (D) **Development Requirements.** Development within the Lake Austin (LA) Overlay Zone must comply with the regulations, minimum lot size, minimum lot width, and setbacks applicable to the LA Zone under Section 23-4D-2060 (Lake Austin Zone).

23-4D-9120 South Central Waterfront Overlay Zone

(A) Purpose

- (1) The South Central Waterfront District (SCWD) Overlay Zone implements the goals of the South Central Waterfront Vision Framework Plan, which was adopted as an amendment to the Comprehensive Plan on June 16, 2016.
- (2) The South Central Waterfront Vision Framework Plan describes this overlay zone as a new and distinct overlay zone that promotes pedestrian accessibility; expanded public open space including parks, trails, plazas, green streets, and thoroughfares; and the inclusion of affordable housing.
- (3) Decisions by the review authority and City boards regarding implementation of the SCWD Overlay Zone shall be guided at all stages by the goals and policies of the South Central Waterfront Vision Framework Plan and associated and duly adopted Appendices and amendments to the South Central Waterfront Vision Framework Plan.
- (4) A property owner who chooses to comply with the requirements in this section is eligible for additional zoning entitlements.

(B) Applicability

- (1) **Base Zoning.** The by-right base zoning is depicted on the citywide zoning map.
- (2) **SCWD Overlay.** An applicant may supersede the standards of the base zone, the Combined Waterfront Overlay, and the Commercial Design Standards of this Title by choosing to follow the provisions of the SCWD Overlay Zone.

- (a) The SCWD Overlay Zone applies to mapped properties, which are identified in the South Central Waterfront Regulating Plan (SCW Regulating Plan), as adopted and amended to the South Central Waterfront Vision Framework Plan.
- (b) The development standards and required community amenity contributions of the SCWD Overlay Zone are contained in the SCW Regulating Plan.

23-4D-9130 University Neighborhood Overlay Zone

#37, 91

- (A) **Purpose.** The purpose of the University Neighborhood Overlay (UNO) Zone is to promote high density redevelopment in the area generally west of the University of Texas campus, encourage affordable housing, provide a mechanism for the creation of a densely populated but livable and pedestrian friendly environment, and protect the character of the predominantly single-family residential neighborhoods adjacent to the zone.
- (B) **Subdistricts.** The UNO Zone consists of the following subdistricts:
 - (1) Inner West Campus Subdistrict;
 - (2) Outer West Campus Subdistrict;
 - (3) Guadalupe Subdistrict; and
 - (4) Dobie Subdistrict.
- (C) **Applicability**
 - (1) The boundaries of the UNO Zone and each subdistrict are identified in Section 23-4D-9150 (Overlay Zone Boundaries Described).
 - (2) This section applies to property in the UNO Zone if the property owner files a site plan and elects to be governed by this section.
 - (3) For property governed by this section, this section supersedes the other provisions of this Title to the extent of conflict.
- (D) **Use Requirements**
 - (1) **Allowed Uses.** In addition to the uses allowed in the base zone, the following uses are allowed in the UNO Overlay Zone:
 - (a) Residential uses in a non-residential base zone;
 - (b) Hotel-motel use;
 - (c) Multi-family use;
 - (d) Group residential use;
 - (e) Local uses, which do not include drive-through facilities and are limited to:
 - (i) Animal service/boarding, level 1;
 - (ii) Business and financial/professional services;
 - (iii) Commercial services and repair;

23-4D-9130: University Neighborhood Overlay Zone

PC Motion #37

100% reduction of parking for properties located within UNO.

PC Motion #91

Staff to work with the University of Texas, UT student body, and the seven neighborhoods who originally crafted UNO and the Central Austin Neighborhood Plan for opportunities for housing around UT, and consider adding height within UNO and extending the boundary of UNO.

- (iv) Commercial food preparation, in conjunction with food sales or restaurant accessory use;
- (v) Day care services (any size);
- (vi) Performance venue/theater, indoor;
- (vii) Food sales;
- (viii) General retail sales;
- (ix) General retail with on-site production;
- (x) Library, museum, or public art gallery;
- (xi) Medical services;
- (xii) Meeting facility;
- (xiii) Office, general;
- (xiv) Personal services;
- (xv) Recreation, indoor;
- (xvi) Restaurant (with or without alcohol sales);
- (xvii) School, business or trade school; and
- (xviii) Studio, art, dance, martial arts, and music;
- (f) Commercial off-street parking in a structure in the Guadalupe, Dobie, or Inner West Campus subdistricts;
- (g) On-site surface parking if the Planning Director determines that:
 - (i) The only building on the site has 6,000 or fewer square feet of gross floor area;
 - (ii) The building was constructed before September 13, 2004; and
 - (iii) The parking area is screened from the thoroughfare by a six-foot tall solid wall.
- (2) **Conditional Uses.** A bar/nightclub is a conditional use if it is an accessory use to a hotel or motel use with at least 50 rooms.
- (3) **Prohibited Uses**
 - (a) Commercial off-street surface parking lots; and
 - (b) Commercial off-street parking in a structure in the Outer West Campus Subdistrict.

(E) Requirements for Specific Uses in an UNO Zone

(1) Multi-Family Residential Use

- (a) Each building must achieve at least a one star rating in compliance with the Austin Energy Green Building program.

- (b) All ground floor dwelling units must be:
 - (i) Adaptable for use by a person with a disability; and
 - (ii) Accessible by a person with a disability from the on-site parking and common facility, if any.
- (c) At least 10 percent of the dwelling units must be accessible for a person with a mobility impairment.
- (d) At least two percent of the dwelling units must be accessible for a person with a hearing or visual disability.
- (e) Each multistory building must be served by an elevator, unless:
 - (i) At least 25 percent of the site's dwelling units are located on the ground floor; or
 - (ii) For a site with fewer than 20 dwelling units, at least five percent of the dwelling units are located on the ground floor.
- (f) A parking space must be leased separately from a dwelling unit.
- (g) The minimum off-street parking requirement is 40 percent of required minimum parking if the multi-family residential use:
 - (i) Includes a car sharing program that complies with the program requirements established by administrative rule; or
 - (ii) In addition to Subsection (I), for at least 15 years from the date the certificate of occupancy is issued, sets aside at least 10 percent of the dwelling units on the site to house persons whose household income is less than 50 percent of the median income in the Austin statistical metropolitan area.

(2) Local Uses

- (a) In the Outer West Campus Subdistrict, local uses listed in Subsection (D)(1)(e) is not allowed in a residential base zone unless the property:
 - (i) Has an allowed building height of 75 feet or greater; or
 - (ii) Is zoned Historic Landmark (H) or Historic District (HD) and has an allowed building height of 65 feet or greater.
- (b) Except as provided in Subsection (E)(2)(c), up to 20 percent of the gross floor area of a site may be used for local uses. At least one-half of the gross floor area of the local uses must be located at street level and accessible from a sidewalk or pedestrian walkway. In determining these percentages, a non-residential use that is accessory to the principal residential use or located in an H or HD Zone is excluded from the gross floor area of the local uses.
- (c) Up to 100 percent of the gross floor area of a structure may be used for local uses if the structure:
 - (i) Is a historic landmark and is located entirely in a subdistrict having an allowed building height of 65 feet or greater;

- (ii) Was constructed before September 13, 2004, contains less than 10,000 square feet of gross floor area, is less than 65 feet in height, and is located in the Inner West Campus or Guadalupe Subdistricts; or
 - (iii) Is less than 65 feet in height and located on:
 - (a) Guadalupe between Martin Luther King, Jr. Boulevard and 29th Street;
 - (b) Martin Luther King, Jr. Boulevard between Guadalupe Street and Rio Grande Street; or
 - (c) 24th Street between Guadalupe Street and Rio Grande Street.
- (3) **Commercial Parking.** The street level portion of a commercial off-street parking structure that is accessible from a sidewalk or pedestrian walkway must contain local uses for a depth of at least 18 feet. This standard does not apply to a portion of the structure used for an entrance or exit.
- (4) **Ground Floor of a Building Including a Parking Garage**
 - (a) The ground floor must include occupant space along at least 75 percent of the net length of street frontage. Net length of street frontage is calculated by determining the cumulative length of the building at ground level adjacent to each street other than an alley, and then deducting the cumulative length of driveways, exit stairs, elevators, and utility equipment space.
 - (b) For a site with frontage on more than one street, driveways, exit stairs and elevators must be located on a street that runs north and south, unless the Planning Director determines that those features cannot reasonably be located along that street because of topographical conditions.
 - (c) The ground floor of a building must not be more than five feet higher or lower than an adjacent public street sidewalk. This does not apply to the ground floor adjacent to an alley.
 - (d) The minimum distance between the finished ground floor of the building and the structural portion of the ceiling is 10 feet.
 - (e) The minimum depth of occupant space is 18 feet, measured from the outside face of the front exterior wall to the outside face of the rear interior wall.
- (5) A hotel/motel use is treated as a local use under this section if it meets the following requirements:
 - (a) The hotel-motel use must be located on property that:
 - (i) Has frontage on Martin Luther King, Jr. Boulevard and is located between Pearl Street and Guadalupe Street; or
 - (ii) Has frontage on Guadalupe Street and is located between 22nd Street and Martin Luther King, Jr. Boulevard.
 - (b) The maximum height must be no greater than 85 feet, unless a greater height is allowed under Subsection (F)(5).
 - (c) If a new hotel-motel use includes, shares, or incorporates adjacent existing property, then both the new hotel-motel use and the adjacent property must be:
 - (i) Included in a single site plan; and

- (ii) Compliant with the streetscape standards in Section 23-9D-1010 (Standards For Design And Construction).
- (6) A hotel/motel use may be associated with multi-family residential, and senior/retirement housing.
- (F) **Development Requirements**
 - (1) **Base Zone.** Except as provided in Subsection (C)(2), a property governed by this section shall comply with the development requirements established for the base zone.
 - (2) **Inapplicable or Superseded Requirements.**
 - (a) A property governed by this section is not required to comply with the following base zone requirements:
 - (i) Maximum floor area ratios;
 - (ii) Maximum building coverage percentages;
 - (iii) Division 23-4E-4 (Landscape); or
 - (iv) For a multi-family residential use, minimum site area and open space standards of Division 23-4E-6 (Specific to Use).
 - (b) For a property governed by this section, the base zone impervious cover limits are superseded as follows:
 - (i) The maximum impervious cover in the Inner West Campus and Guadalupe subdistricts is 100 percent;
 - (ii) The maximum impervious cover in the Outer West Campus subdistrict is the greater of 90 percent or the percentage allowed in the base zone; and
 - (iii) The maximum impervious cover in the Dobie subdistrict is the greater of 85 percent or the percentage allowed in the base zone.
 - (3) **Signs.** A sign on a property governed by this section shall comply with Chapter 23-8 (Signage).
 - (4) **Minimum Lot Area.** A lot must be at least 2,500 square feet.
 - (5) **Height.** Maximum heights for structures are prescribed by Figure (1) except an exterior building wall that faces a street must be at least 24 feet high.
 - (6) **Setbacks**
 - (a) A property governed by this section shall comply with the setback requirements established in Table (A) (Setback Requirements).
 - (b) The Development Services Director may modify the maximum setback requirements if necessary to protect a historic structure or a tree the city arborist designates significant.

Table 23-4D-9130(A) Setback Requirements

Setback	Minimum	Maximum
Front and Side Street		

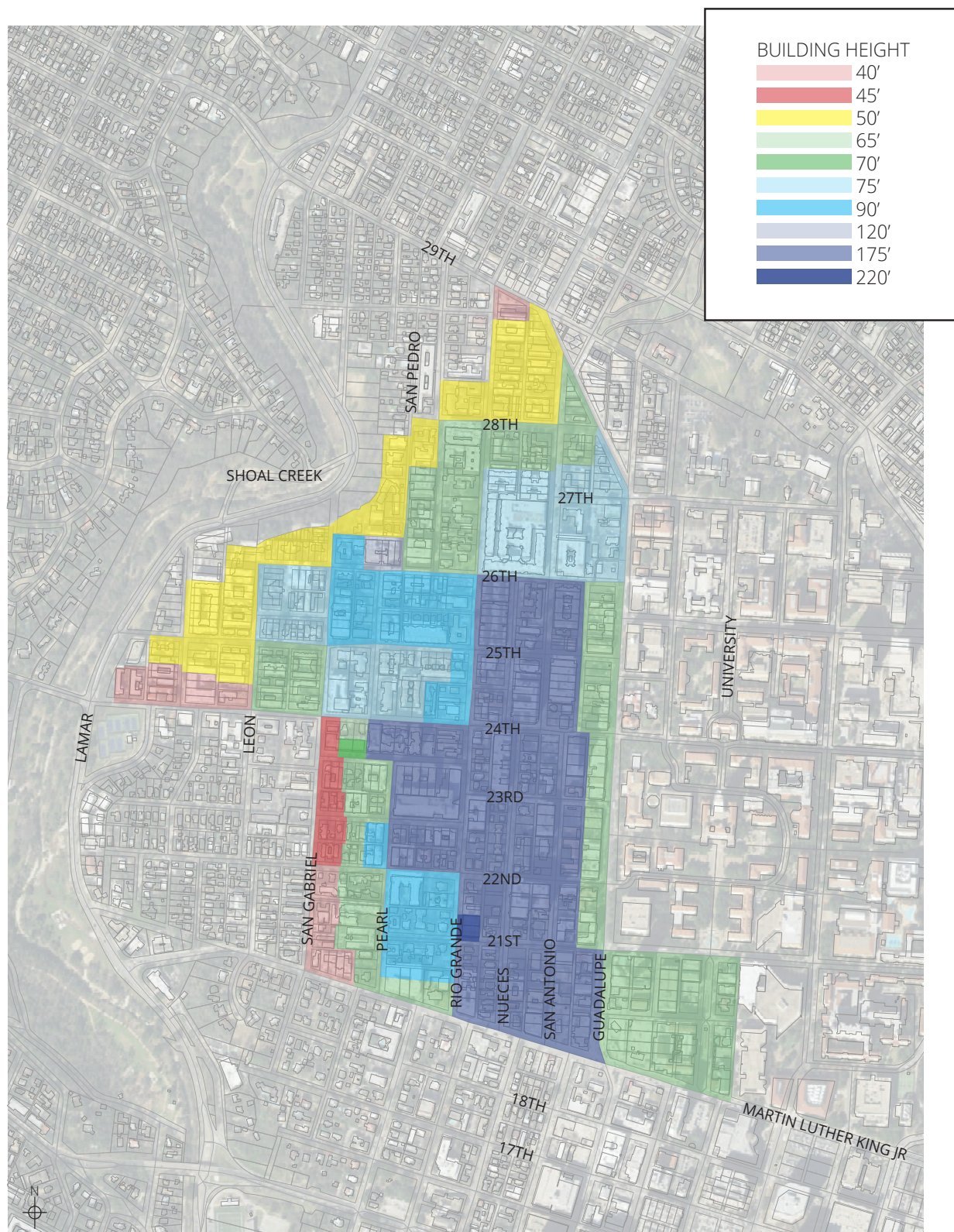


Figure 23-4D-9130(1): University Neighborhood Overlay Height Districts

Along Martin Luther King, Jr. Boulevard between Rio Grande Street and San Gabriel Street	10'	15'
For a public plaza or private common open space	none	45'
For pedestrian entry court or outdoor café	0'	0'
All other areas	0'	10'
Interior Side and Rear		
All	0'	none
Building Placement		
From the front face of a curb	12'	none
From the centerline of the adjacent street	30'	none

- (7) **Wall Required.** A building or a solid masonry wall that is at least six feet high is required between a public or common open space area and a property located in a Residential House-Scale Zone.
- (8) **Stepbacks and Envelope**
- (a) Except as provided in Subsection (F)(8)(c), if an exterior wall is adjacent to a street other than an alley, and is 65 feet in height, the upper portion of the wall shall be set back from the property line by a distance of at least 12 feet.
 - (b) Except as provided in Subsection (F)(8)(c), if the north side of a building is adjacent to a street other than an alley and is at least 65 feet in height, the upper portion of the north side of the building shall be set back within a building envelope that is formed by a plane that extends from a point on the property line 65 feet high toward the building at an angle of 62 degrees above horizontal.
 - (c) Subsection (F)(8)(a) or (F)(8)(b) does not apply to the 15 percent of the length of a building frontage, if that portion of the building frontage is used for an elevator or stairway.
 - (d) A parapet must not extend more than five feet above the 65 foot stepback height described in Subsections (F)(8)(a) and (F)(8)(b) or more than five feet above the total building height.
 - (e) An exterior building wall that faces a thoroughfare shall be at least 24 feet tall.
 - (f) Instead of complying with Subsections (F)(8)(a) through (F)(8)(c), a hotel-motel use in the Outer West Campus Subdistrict shall:
 - (i) On a property that fronts Martin Luther King, Jr. Boulevard, fit all buildings within an envelope delineated by a 45 degree angle starting at a height of 60 feet above grade of the property line adjacent to Martin Luther King Jr. Boulevard, and extending to a maximum height of 85 feet;
 - (ii) On a property that abuts a historic property, provide open space that measures at least 50 feet deep for at least 50 feet along the street frontage beginning at the common boundary with the historic property and may

contain paving, parking, fountains, fences, patios, terraces, canopies, trellises, and landscaping; and

- (iii) On a property with on the site parking, locate 75 percent of the spaces below grade.

(9) Street Wall Area Occupant Space

- (a) At least 42 percent of the street wall area of a building must contain occupant space.
- (b) If a building has street wall areas on more than one street, at least 70 percent of the required occupant space must be on a street that runs east and west.
- (c) This section does not apply to a commercial off-street parking structure.

(10) Streetscape Improvements

- (a) A property owner shall install a sidewalk that is at least 12 feet wide along each street frontage adjacent to the site.
- (b) Sidewalks must be level with the top of the curb of the adjacent street, except to the minimum degree necessary to provide for drainage.
- (c) A property owner shall plant and maintain trees along an adjacent street right-of-way.
- (d) Trees must be spaced to create a nearly contiguous canopy when the trees reach maturity.
- (e) A tree must be in scale with the adjacent building.
- (f) A tree planted in a sidewalk area must have a tree grating.
- (g) An applicant shall provide pedestrian-scale lighting and street furnishings along an adjacent street right-of-way.
- (h) The Planning Director shall adopt rules prescribing the requirements for tree planting and maintenance and the provision of pedestrian-scale lighting and street furnishings.
- (i) The Planning Director may require fiscal security to ensure compliance with Subsection (F)(10).

(11) Placement of Equipment and Trash Receptacles

- (a) Utility equipment, mechanical equipment, and large trash receptacles:
 - (i) Are prohibited in the area between a building and a street; and
 - (ii) Must not be visible from a street.
- (b) On a site with frontage on an alley that is 20 or more feet wide.
 - (i) A transformer room or utility vault must be located adjacent to and accessible from the alley; and
 - (ii) A pump room, sprinkler room, or other utility or mechanical room must be located adjacent to and accessible from the alley unless the fire chief

determines that placing the room in another location is required because of a fire safety issue.

(12) Site Access

- (a) Vehicle Access
 - (i) East-west public streets. Vehicular access to a site from a public street that runs east and west is limited to one curb cut for each 140 feet of street frontage.
 - (ii) North-south public streets. Vehicular access to a site from a public street that runs north and south is limited to two curb cuts.
 - (iii) Corner lot. Vehicular access to a corner lot must be from a public street or alley that runs north and south.
- (b) A site with access to an alley must use the alley or a parking structure for service and delivery access.
- (c) A site that does not have access to an alley must provide a service and delivery area that is at least 30 feet deep, measured from the front setback line or side setback line, as applicable.
- (d) A driveway turn radius may not exceed 15 feet unless the fire chief determines that a larger radius is required because of a fire safety issue.
- (e) The Transportation Director may waive or modify a requirement of Subsection (F) (12) if it is determined that the waiver or modification is necessary for adequate traffic circulation or public safety.

(G) Design Guidelines

- (1) A site plan must comply with the design guidelines prescribed by administrative rule. An applicant shall file with the site plan drawings of all building elevations and streetscapes that demonstrate substantial compliance with the design guidelines.
- (2) The Development Services Director shall determine whether a site plan substantially complies with the design guidelines.
- (3) The Development Services Director may waive a provision of the design guidelines if the director determines that the provision is unreasonable or impractical as applied to the site plan and that, with the waiver, the site plan will still substantially comply with the design guidelines. A waiver in compliance with this subsection must be the minimum departure from the provision necessary to avoid an unreasonable or impractical result.
- (4) An interested party may appeal to the Land Use Commission:
 - (a) A determination by the Development Services Director that a site plan substantially complies with the design guidelines; or
 - (b) A decision by the Development Services Director granting or denying a waiver in compliance with Subsection (G)(3).

(H) Height Increases In the Outer West Campus Subdistrict

- (1) A structure with a multi-family residential use or group residential use may exceed the maximum height allowed in Subsection (G)(5) by up to 15 feet if:
 - (a) The structure is located in an area for which the maximum height is at least 50 feet; and
 - (b) The multi-family residential use or group residential use, for a period of not less than 40 years from the date a certificate of occupancy is issued, sets aside at least:
 - (i) Ten percent of the dwelling units or bedrooms on the site to house persons whose household income is at or below 60 percent of the median income in the Austin statistical metropolitan area, as determined by the Housing Director;
 - (ii) Ten percent of the dwelling units or bedrooms on the site to house persons whose household income is at or below 50 percent of the median income in the Austin statistical metropolitan area, as determined by the Director of the Housing Director; and
 - (iii) The applicant pays into the University Neighborhood District Housing Trust Fund a fee of \$0.50 for each square foot of net rentable floor area in the multi-family residential use or group residential use development or provides an additional 10 percent of the dwelling units or bedrooms on the site to house persons whose household income is at or below 50 percent of the median income in the Austin statistical metropolitan area as determined by the Housing Director.

(I) Affordable Units

- (1) A multi-family residential use or a group residential use established after February 24, 2014 must, for a minimum period of 40 years from the date the final certificate of occupancy is issued, set aside at least:
 - (a) Ten percent of the dwelling units or bedrooms on the site to house persons whose household income is at or below 60 percent of the median income in the Austin statistical metropolitan area, as determined by the Housing Director; and
 - (b) Except as provided in Subsection (I)(2), an additional 10 percent of the dwelling units or bedrooms on the site to house persons whose household income is at or below 50 percent of the median income in the Austin statistical metropolitan area, as determined by the Housing Director.
- (2) **The University Neighborhood Housing Trust Fund Established.** Instead of complying with Subsection (I)(1)(b), a person may pay into the University Neighborhood Housing Trust Fund a fee for each square foot of net rentable floor area in the multi-family residential use or group residential use development. The fee is adjusted annually as determined by the Housing Director and adopted by the council to the City's fee schedule.
- (3) The Housing Director may allocate money from the University Neighborhood Housing Trust Fund for housing development in the UNO Zone that provides at least 30 percent of its dwelling units or bedrooms to persons whose household income is at or below 50 percent of the median income in the Austin statistical metropolitan area, as determined by Housing Director, for a minimum period of 40 years from the date the final certificate of occupancy is issued.

- (4) Rents are established annually by the Housing Director as follows:
 - (a) Rents for single occupancy rental units for households who are at or below 60 percent of the median family income may not exceed the Low HOME Rent Limit for one bedroom as established annually by the Texas Department of Housing and Community Affairs.
 - (b) Rents for single occupancy rental units for households who are at or below 50 percent median family income households may not exceed the 40 percent Median Family Income HOME Rent Limit for an efficiency as established annually by the Texas Department of Housing and Community Affairs.
 - (c) For existing developments in the UNO Zone that opt in to leasing by the bedroom for the remainder of their commitment:
 - (i) Rents for single occupancy rental units for households who are at or below 60 percent of the median family income may not exceed the high HOME rent limit for a one bedroom as established annually by the Texas Department of Housing and Community Affairs; and
 - (ii) Rents for single occupancy rental units for households who are at or below 50 percent of the median family income may not exceed the 40 percent Median Family Income HOME rent limit for an efficiency as established annually by the Texas Department of Housing and Community Affairs.
 - (iii) The Housing Director may adopt administrative rules necessary to enforce these provisions.
- (5) An applicant cannot deny a prospective tenant housing based solely on the prospective tenant's participation in the Housing Choice Voucher Program or in any other housing voucher program that provides rental assistance.
- (6) For a hotel/motel use that has an associated multi-family use, group residential use, or senior/retirement housing use, instead of complying with Subsection (l)(1) a person may pay into the University Neighborhood Housing Trust Fund a fee for each square foot of the combined net square footage of the residential units and the hotel/motel units, if:
 - (a) The number of residential units associated with a hotel/motel use does not exceed 40 percent of the number of hotel/motel units; and
 - (b) The net square footage of the residential units does not exceed 45 percent of the net square footage of hotel/motel units.

23-4D-9140 Waterfront Overlay Zone

(A) Purpose

- (1) The purpose of the Waterfront Overlay (WO) Zone is to promote the harmonious interaction and transition between urban development and the park land and shoreline of Lady Bird Lake and the Colorado River.
- (2) The director and City board's decisions regarding implementation of this section shall be guided at all stages by the goals and policies of the Town Lake Corridor Study, including, but not limited to, the following:

- (a) Ensure that zoning decisions in the Colorado River Corridor achieve the highest degree of land use compatibility by:
 - (i) Eliminating industrial uses from the confluence of Longhorn Dam;
 - (ii) Phasing out resource extraction; and
 - (iii) Providing the public visual and physical access to the Colorado River.
- (b) Protect, enhance, and interpret natural values and environmentally sensitive areas of the Colorado River Corridor through:
 - (i) Appropriate mitigation for new development affecting identified landforms; and
 - (ii) Maintenance of natural shorelines and bluffs along the waterfront, except where otherwise required by subdistricts or for necessary stabilization.
- (c) Recognize the potential of the waterfront as an open space connector, form-shaper of urban development, and focal point for lively pedestrian-oriented mixed-uses as defined by the subdistrict goals of the Town Lake Corridor Study.

(B) Applicability

- (1) This section applies to property in the Waterfront Overlay (WO) Zone, as defined in Section 23-4D-9150 (Overlay Zone Boundaries Described).
- (2) The requirements of this section do not apply to:
 - (a) A single-family, duplex, or accessory dwelling unit use;
 - (b) A community event use; or
 - (c) The construction or reconstruction of existing or proposed development for which:
 - (i) A building permit was issued before July 18, 1986;
 - (ii) A certificate of occupancy was issued before July 18, 1986;
 - (iii) A site plan was approved before July 17, 1986, including a phased development or a special permit site plan;
 - (iv) A site plan was filed with the City before July 17, 1986 as a condition of zoning, and the site plan was previously approved by the council or Lady Bird Lake Task Force; or
 - (v) Building plans were filed with the City before July 17, 1986.
- (3) The requirements of this section supersede the other provisions of this Title, to the extent of conflict.

(C) Park and Area Boundaries

- (1) **Community Park.** The following areas in Lady Bird Lake Park are community parks:
 - (a) Tracts S-1, S-2, S-3A, S-4, S-6, S-7, S-8, S-9, N-1, N-2, N-3, N-4, N-5A, N-6, N-7, N-8, N-9, N-10, N-11, N-15, N-16A, and N-17A on the park classification map;

- (b) Park land in the area bounded on the north by the Colorado River, on the west by Pleasant Valley Road, on the south by the proposed extension of Lakeshore Boulevard, and on the east by the crest of the bluff of Country Club Creek;
 - (c) Park land in the area bounded on the north by Lake Austin Boulevard, on the south by Lady Bird Lake, on the east by the MoPac Freeway, and on the west by the extension of the western boundary of Eilers Park;
 - (d) The Holly Street Power Plant, when its current use stops and it is dedicated as park land; and
 - (e) Park land within 50 feet of the shoreline of Lady Bird Lake.
- (2) **Cultural Parks.** The following areas in Lady Bird Lake Park are cultural parks:
- (a) Tracts S-2D, S-3, S-4A, S-5, S-5A, S-5B, and S-5C on the park classification map;
 - (b) Park land in the area bounded on the east by Dawson Road, on the west by Lamar Boulevard, on the south by Barton Springs Road, and on the north by Riverside Drive;
 - (c) Park land in the area bounded on the north by Lady Bird Lake, on the south by Barton Springs Road, Barton Boulevard, and the westward extension of Linscomb Avenue, on the east by Lamar Boulevard, and on the west by Robert E. Lee Road and the hike and bike trail;
 - (d) Park land north of the intersection of River Street and Bierce Street, known as the Mexican American Cultural Center; and
 - (e) The Seaholm Power Plant and Green Water Treatment Plant water intake structures.
- (3) **Neighborhood Parks.** The following areas in Lady Bird Lake Park are neighborhood parks:
- (a) Tracts S-2A, S-10, N-5, N-16, and N-17 on the Park Classification Map;
 - (b) Park land in the area bounded on the north by Lady Bird Lake, on the west by East Bouldin Creek, on the east by Blunn Creek, and on the south by Riverside Drive; and
 - (c) Park land in the area bounded on the north by the Colorado River, on the east by Montopolis Drive, on the south by the extension of Grove Boulevard, and on the west by the crest of the bluff of Country Club Creek.
- (4) **Natural Areas.** The following areas in Lady Bird Lake Park are natural areas:
- (a) Tracts W-1, S-2B, S-2C, N-3A, and N-18 on the Park Classification Map;
 - (b) Park land located between the Colorado River shoreline and the crest of the bluff north of the Colorado River, from Longhorn Dam to U.S. 183 (Montopolis Bridge); and
 - (c) Park land northeast of Lady Bird Lake from Tom Miller Dam to the west boundary of Eilers Park and southwest of Lady Bird Lake from Tom Miller Dam to the Austin Nature Center.

- (5) **Urban Waterfront Areas.** Tracts N-12, N-13, and N-14 on the park classification map are urban waterfront areas.

(D) **Procedures**

(1) **Small Area Planning Joint Committee Role and Responsibilities**

- (a) The Small Area Planning Joint Committee reviews and provides a recommendation to the Land Use Commission regarding each of the following approvals required for a proposed development within the Waterfront Overlay Zone:
- (i) A variance in compliance with Subsection (E)(2);
 - (ii) A conditional use permit under Section 23-4B-1020 (Conditional Use Permit);
 - (iii) A zoning or rezoning application under Section 23-2E-1010 (Purpose Applicability, and Policy Statement);
 - (iv) A proposed amendment to Title 23 that directly affects the Waterfront Overlay Zone; and
 - (v) A proposed amendment to the comprehensive plan that directly affects the Waterfront Overlay Zone.
- (b) The Small Area Planning Joint Committee shall consider a request for review and recommendation under Subsection (D)(1)(a) at the earliest meeting for which notice can be timely provided.
- (c) If the Small Area Planning Joint Committee fails to make a recommendation as required, the Land Use Commission may approve or deny the site plan without a recommendation from the Small Area Planning Joint Committee.
- (2) **Site Plan.** The Park Director is required to review the site plan before the site plan may be approved. The Park Director shall determine:
- (a) Whether the site plan is compatible with adopted park design guidelines; and
 - (b) If significant historic, cultural, or archaeological sites are located on the property..

(E) **General Waterfront Overlay (WO) Standards**

- (1) **Allowed Uses.** Development in Lady Bird Lake areas is limited to the uses described in Table (A) (Allowed Uses in Lady Bird Lake Park Areas). A 'P' indicates the use is allowed.
- (2) **Additional Floor Area**
- (a) In the WO Overlay Zone, a structure may exceed the maximum floor area allowed in the base zone as provided by this subsection.
 - (i) Additional floor area under Subsection (E)(2)(b) is limited to 60 percent of the base zone maximum.
 - (ii) Additional floor area under Subsection (E)(2)(c) is limited to 20 percent of the base zone maximum.
 - (iii) Total additional floor area under this subsection is limited to 60 percent of the base zone maximum.

Table 23-4D-9140(A) Allowed Uses in Lady Bird Lake Park Areas

	Natural Area	Neighborhood Park	Community Park	Cultural Park	Urban Waterfront	Other
'P' Allowed Use; '-' Not Allowed						
Nature trails with interpretive signs and facilities	P	-	-	-	-	-
Surface parking with pervious material and access roads	P	P	P	-	-	P
Surface parking and parking structures	-	-	P	-	-	-
General park support and maintenance	P	P	P	P	P	P
Walking, exercise, and bicycle trails or sidewalks	-	P	P	P	P	P
Picnic facilities	-	P	P	-	-	P
Concessions primarily serving an adjacent neighborhood, including food vending, bicycle rentals, and sports equipment rentals	-	P	P	-	-	-
Concessions designed to attract individuals from throughout the City including boat rentals, food vending, dining facilities, sports facilities, and special recreational facilities	-	-	P	-	-	-
Concessions that are designed to attract people from throughout the City that are mobile, temporary or located in a building described in the Town Lake Park Plan, and that require a small amount of space, including pushcarts selling food or flowers, temporary vending stands for special events, and museum gift shops.	-	-	-	P	P	-
Cultural facilities primarily serving and adjacent neighborhood	-	P	P	P	-	-
Performance and special events facilities, areas, or plazas	-	-	P	P	P	-
Maintenance and improvement of environmental quality, including stream bank stabilization, fencing and wildlife and vegetation management	P	P	P	P	P	-
Municipal swimming pools and associated facilities	-	-	P	-	-	-
General neighborhood park uses, including playing fields, ball courts, swimming pools, and playscapes	-	P	P	P	-	-
Specialized facilities, including facilities that serve persons with disabilities, private nonprofit recreational facilities that serve the general public, and private park enhancement facilities	-	-	P	-	-	-
An internal park road system, with grade-separated intersections if required	-	-	P	P	-	-
Athletic facilities, including multipurpose sports fields and exercise courses	-	-	P	-	-	-
Rowing facilities, boathouses, and similar water-related activities	-	-	-	-	P	-

- (b) In a Residential House-Scale Zone, Residential Multi-Unit Zone, or Mixed-Use Zone, additional floor area for a residential use is allowed.
 - (c) If the base zone is not Residential House-Scale, Residential Multi-Unit, or Mixed-Use, floor area for pedestrian-oriented uses is allowed in addition to the maximum floor area otherwise allowed, if the pedestrian-oriented uses are on the ground floor of the structure and have unimpeded public access from a public right-of-way or park land. A pedestrian-oriented use required under Subsection (l) is excluded from the additional floor area allowed in this provision.
 - (d) In the North Shore Central Subdistrict:
 - (i) An additional one-half square foot of gross floor area is allowed for each one square foot of gross floor area of a parking structure that is above grade; and
 - (ii) An additional one square foot of gross floor area is allowed for each one square foot of a parking structure that is below grade.
 - (e) Additional gross floor area is allowed for each existing Category A tree, as determined by the City's tree evaluation system, that is either left undisturbed or transplanted under the supervision of the City arborist.
 - (i) A tree is considered undisturbed under Subsection (E)(2)(e) if the area within a circle centered on the trunk with a circumference equal to the largest horizontal circumference of the tree's crown is undisturbed.
 - (ii) A tree may be transplanted off-site if the Land Use Commission determines that the character of the site is preserved and approves the transplanting.
 - (iii) The allowed additional gross floor area is calculated by multiplying the undisturbed area described in Subsection (E)(2)(e)(i) by the base zone height limitation and dividing the product by 12.
 - (f) Additional gross floor area is allowed for land or an easement dedicated to the City for public access to Lady Bird Lake or the Colorado River. The additional gross floor area is calculated by multiplying the square footage of the access area by the height limitation applicable to the property and dividing the product by 12.
 - (g) Additional gross floor area is allowed for land that is restricted to create a side setback or restricted public access to Lady Bird Lake, the Colorado River, or a creek. The additional gross floor area is calculated by multiplying the square footage of the restricted area by the height limitation applicable to the property and dividing the product by 12.
 - (h) An additional one square foot of gross floor area is allowed for each one square foot of area restricted to create a scenic vista of Lady Bird Lake, the Colorado River, or a creek.
 - (i) For a proposal to develop less than the maximum allowable impervious cover, an additional one square foot of gross floor area is allowed for each one square foot of impervious cover less than the allowable maximum.
- (3) **Primary Setback**
- (a) Except as otherwise provided in this subsection, parking areas and structures are prohibited; and
 - (b) Park facilities, including picnic tables, observation decks, trails, gazebos, and pavilions, are allowed if:

- (i) The park facilities are located on public park land; and
- (ii) The impervious cover does not exceed 15 percent.

(4) Secondary Setback

- (a) In a secondary setback area fountains, patios, terraces, outdoor restaurants, and similar uses are allowed.
- (b) Impervious cover may not exceed 30 percent.

(5) Standards for Parking Areas

- (a) Surface parking must be:
 - (i) Placed along roadways, if practicable; and
 - (ii) Screened from views of Lady Bird Lake, the Colorado River, park land, and the creeks named in this section.
- (b) An above ground parking structure must:
 - (i) Have a pedestrian scale and be either architecturally integrated with the associated building or screened from views from Lady Bird Lake, the Colorado River, park land, and other creeks named in this section; and
 - (ii) Incorporate pedestrian oriented uses at ground level when adjacent to Lady Bird Lake, the Colorado River, park land, or other creeks named in this section.
- (c) Setback requirements do not apply to a parking structure that is below grade.

(6) Design Standards for Buildings

- (a) Glass used on the first floor of a structure must have a visible transmittance rating of 0.6 or higher; and reflective surface building materials are prohibited.
 - (b) Except in the City Hall Subdistrict, a distinctive building top including cornices, stepped parapets, hipped roofs, mansard roofs, domes, and stepped terraces, is required for a building that exceeds a height of 45 feet. To the extent required to comply with the requirements of Chapter 13-1, Article 4 (Heliports and Helicopter Operations), a flat roof is allowed.
 - (c) Except in the City Hall Subdistrict, a building basewall that is 45 feet or less in height is required for a building that fronts on Lady Bird Lake, Shoal Creek, or Waller Creek; that adjoins public park land or Lady Bird Lake; or that is across a street from public park land. Entryways or architectural detailing are required to break the continuity of nontransparent basewalls.
 - (d) A building facade must not extend horizontally in an unbroken line for more than 160 feet.
- (7) Underground utility service is required, unless otherwise determined by the utility provider.
- (8) Trash receptacles, air conditioning or heating equipment, utility meters, loading areas, and external storage must be screened from public view.

(9) Special Standards for Public Works

- (a) Development of public works in Lady Bird Lake Park, including utility construction, flood control channels, and bridge improvements, must be consistent with the Town Lake Park Plan.
- (b) Right-of-way development, including street, sidewalk, and drainage construction, must be compatible with the development of adjacent park land and consistent with the Town Lake Park Plan. Factors to be considered in determining consistency with the Town Lake Park Plan include park land access, road alignment, utility placement, sidewalk design and placement, landscaping, and stormwater filtration. This requirement applies to:
 - (i) Public rights-of-way within or adjoining the boundaries of the WO Overlay Zone, including public rights-of-way for streets designated in the Transportation Plan;
 - (ii) Trinity Street, from Cesar Chavez Street to Fifth Street; and
 - (iii) Guadalupe Street and Lavaca Street, from Cesar Chavez Street to Fifth Street.
- (c) The Watershed Director shall review an application for development of public works in Lady Bird Lake Park and shall work with the Parks Director to implement applicable recommendations by the Comprehensive Watershed Ordinance Task Force that were approved by the council on May 22, 1986.
- (d) The Environmental Commission shall review a development if the Watershed Director determines that the development offers an opportunity for a major urban water quality retrofit. If Land Use Commission review is required, the Environmental Commission shall forward its comments to the Land Use Commission.
- (e) Streetscape improvements that are consistent with the Town Lake Park Plan are required on the following streets:
 - (i) Barton Springs Road, from Congress Avenue to MoPac Freeway;
 - (ii) Congress Avenue, from Riverside Drive to First Street;
 - (iii) Grove Boulevard, from Pleasant Valley Road to Montopolis Drive;
 - (iv) Lakeshore Boulevard, from Riverside Drive to Montopolis Drive;
 - (v) Lamar Boulevard, from the Union Pacific railroad overpass to Barton Springs Road;
 - (vi) Trinity Street, from Cesar Chavez Street to Fifth Street;
 - (vii) Cesar Chavez Street, from MoPac Freeway to IH-35;
 - (viii) Guadalupe Street, from Cesar Chavez Street to Fifth Street;
 - (ix) Lavaca Street, from Cesar Chavez to Fifth Street; and
 - (x) South First Street, from Lady Bird Lake to Barton Springs Road
- (f) A streetscape improvement is an improvement to a public right-of-way, and includes sidewalks, trees, light fixtures, signs, and furniture.

(F) Development Requirements by Subdistrict

- (1) A property shall comply with the development requirements established by the property's base zone unless the requirement is modified in this subsection. A property subject to the Waterfront Overlay Zone shall comply with the requirements

Table 23-4D-9140(B) Development Requirements for Auditorium Shores Subdistrict

(1) Setbacks (min.)

(a) Primary Setback Line

East of Union Pacific Railroad (UPR), landward from Lady Bird Lake Shoreline	1,200 feet
West of UPR	Entire property

(b) Secondary Setback Line

East of UPR	Northern boundary of ROW of Barton Spring Road
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(2) Height (max.)

(a) Primary setback	25 ft or base zone, whichever is lower
(b) Secondary setback	60 ft or base zone, whichever is lower

Table 23-4D-9140 (C) Development Requirements for Balcones Rock Cliff Subdistrict

(1) Setbacks (min.)

(a) Primary Setback Line

Landward of Lady Bird Lake shoreline	75 ft
Landward for a single-family lot platted before July 17, 1985 that is zoned RR or minimum 20,000 sf	50 ft

(2) Impervious Coverage (max.) ¹

(a) Beyond primary or secondary setback	30%
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(3) Height (max.) 35 ft or base zone, whichever is lower

Notes

¹ The maximum impervious cover may not be attainable due to unique site characteristics including, but not limited to, trees, waterways, and steep slopes. Where necessary, the project shall reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-9410(D) Development Requirements for Butler Shores Subdistrict

(1) Setbacks (min.)

(a) Primary Setback Line

Landward from Lady Bird Lake Shoreline	100 ft
South of southern boundary of Toorney Rd	35 ft
South of southern boundary of Barton Springs Road	35 ft
North of northern boundary of Barton Springs Road	35 ft
From Barton Creek centerline	100 ft

(b) Secondary Setback Line

From primary setback line of Lady Bird Lake	100 ft
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(2) Impervious Coverage (max.) ¹

(a) Gradient exceeds 25%	Impervious cover prohibited
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(3) Height (max.)

(a) North of Barton Springs Road	96 ft or base zone, whichever is lower
(b) South of Barton Springs Road	60 ft or base zone, whichever is lower

Table 23-4D-9140(E) Development Requirements for City Hall Subdistrict

(1) Setbacks (min.)

(a) Primary Setback Line

Landward from Lady Bird Lake shoreline	100 ft
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Table 23-4D-9140(F) Development Requirements for East Riverside Subdistrict

(1) Setbacks (min.)

(a) Primary Setback Line

Landward from Lady Bird Lake Shoreline	100 ft
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(2) Impervious Coverage (max.) ¹

(a) Beyond primary or secondary setback	50%
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(3) Height (max.) 96 ft or base zone, whichever is lower

Table 23-4D-9140(G) Development Requirements for Festival Beach Subdistrict

(1) Setbacks (min.)	
(a) Primary Setback Line	
Landward from Lady Bird Lake Shoreline	100 ft
(b) Secondary Setback Line	
Landward from primary setback line	50 ft
(2) Impervious Coverage (max.) ¹	
(a) Beyond primary or secondary setback; or	40% ¹
(b) For a site that:	70%
<p>(1) Contains congregate care and retail uses on 15 or more acres; (2) Is adjacent to 1.5 or more acres of parkland or publicly accessible open space; (3) Contains the following enhanced water quality features:</p> <p>(i) Water quality treatment utilizing green water quality controls sized at ½-inch or greater, based on assumed impervious cover of 68 percent;</p> <p>(ii) At least 30,000 square feet of porous pavement for pedestrian areas;</p> <p>(iii) At least 8,126 cubic feet of rainwater harvesting sufficient to capture 1.3 inches of runoff from 75,000 square feet of impervious cover; and</p> <p>(iv) Onsite water quality ponds sufficient to treat a minimum of 6,200 cubic feet of off-site drainage.</p> <p>¹ If an applicant elects to develop a site at greater than 40% impervious cover, a restrictive covenant or other legal instrument approved by the director must be executed before the site plan release.</p>	
(3) Height (max.)	60 ft or base zone, whichever is lower

Table 23-4D-9140(H) Development Requirements for Lamar Subdistrict

(1) Setbacks (min.)	
(a) Primary Setback Line	
Landward from Lady Bird Lake Shoreline	100 ft
Johnson Creek Centerline	90 ft
(b) Secondary Setback Line	
Landward from primary setback line	50 ft
(1) Height (max.)	
(a) Within 140 ft of Johnson Creek Centerline	35 ft or base zone, whichever is lower
(b) Beyond 140 ft of Johnson Creek Centerline	60 ft or base zone, whichever is lower

Table 23-4D-9140(I) Development Requirements for Montopolis/River Terrace Subdistrict

(1) Setbacks (min.)	
(a) Primary Setback Line	
Landward from the 430 foot contour line along Colorado Rive	150 ft
(b) Secondary Setback Line	
Landward from primary setback line that is parallel to Lady Bird Lake Shoreline	100 ft
(2) Height (max.)	60 ft or base zone, whichever is lower

Notes

¹ The maximum impervious cover may not be attainable due to unique site characteristics including, but not limited to, trees, waterways, and steep slopes. Where necessary, the project shall reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-9140(J) Development Requirements for North Shore Central Subdistrict**(1) Setbacks (min.)****(a) Primary Setback Line**

Landward from Lady Bird Lake Shoreline	100 ft
From Shoal Creek Centerline	60 ft
From Waller Creek Centerline	50 ft

(b) Secondary Setback Line

Landward from primary setback line	100 ft
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Table 23-4D-9140(K) Development Requirements for Rainey Street Subdistrict**(1) Setbacks (min.)****(a) Primary Setback Line**

Landward from Lady Bird Lake Shoreline	150 ft
From Waller Creek Centerline	50 ft

Table 23-4D-9140(L) Development Requirements for Red Bluff Subdistrict**(1) Setbacks (min.)****(a) Primary Setback Line**

From the 450 foot contour line, from Pleasant Valley Road to the extension of Shady Lane and from the extension of Shady Lane to US 183	40 ft
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(b) Secondary Setback Line

From the Primary Setback line	110 ft
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(2) Height (max.)

(a) Within secondary setback	35 ft or base zone, whichever is lower
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Table 23-4D-9140(M) Development Requirements for South Lakeshoe Subdistrict**(1) Setbacks (min.)****(a) Primary Setback Line**

Landward from Lady Bird Lake Shoreline	65 ft
South of Lakeshoe Boulevard	50 ft

(2) Height (max.) **60 ft or base zone, whichever is lower****Table 23-4D-9140(N) Development Requirements for South Shore Central Subdistrict****(1) Setbacks (min.)****(a) Primary Setback Line**

Landward from Lady Bird Lake Shoreline	150 ft
Form East Boulding Creek Centerline	80 ft
North of northern ROW of Riverside Drive	35 ft

(b) Secondary Setback Line

Landward from primary setback parallel to Lady Bird Lake Shoreline	50 ft
From primary setback parallel to East Bouldin Creek centerline	130 ft

(2) Height (max.)

(a) Between primary and secondary setbacks	35 ft or base zone, whichever is lower
(b) South of Riverside between South Congress Avenue and East Bouldin Creek	45 ft or base zone, whichever is lower
(c) Within 100 ft; or South Congress Avenue; or South First Street Avenue ROW	60 ft or base zone, whichever is lower
(d) All other areas	96 ft or base zone, whichever is lower

Notes

¹ The maximum impervious cover may not be attainable due to unique site characteristics including, but not limited to, trees, waterways, and steep slopes. Where necessary, the project shall reduce the impervious cover to comply with other requirements of this Title.

Table 23-4D-9140(O) Development Requirements for Travis Heights Subdistrict

(1) Setbacks (min.)

(a) Primary Setback Line

Landward from Lady Bird Lake Shoreline	150 ft
Form East Boulding Creek Centerline	80 ft
Form East Blunn Creek Centerline	80 ft

(2) Impervious Coverage (max.) ¹

(a) Beyond primary or secondary setback	50%
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(3) Height (max.)

(a) Between shoreline of Lady Bird Lake and Riverside Drive	45 ft or base zone, whichever is lower
(b) All other structures	60 ft or base zone, whichever is lower

Table 23-4D-9140(P) Development Requirements for University/Deep Eddy Subdistrict

(1) Setbacks (min.)

(a) Primary Setback Line

Landward from Lady Bird Lake Shoreline, between Tom Miller Dam and Red Bud Trail	200 ft
Landward from Lady Bird Lake shoreline, between Red Bud Trail and MoPac Boulevard	300 ft

(b) Secondary Setback Line

Landward from primary setback line, between Tom Miller Dam and Red Bud Trail	50 ft
Landward from the primary setback line, between Red Bud Trail and MoPac Boulevard	100 ft

(2) Impervious Coverage (max.) ¹

(a) Beyond primary or secondary setback	40%
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(3) Height (max.)

(a) Within primary, secondary, or 50 ft of a secondary setback line	35 ft
(b) All other structures	60 ft or base zone, whichever is lower

Table 23-4D-9140(Q) Development Requirements for Zilker Park Subdistrict

(1) Setbacks (min.)

(a) Primary Setback Line

Landward from Lady Bird Lake Shoreline	100 ft
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(b) Secondary Setback Line

Landward from primary setback line	700 ft
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(2) Impervious Coverage (max.) ¹

(a) Beyond primary or secondary setback	40%
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(3) Height (max.) **45 ft or base zone whichever is lower**

Notes

¹ The maximum impervious cover may not be attainable due to unique site characteristics including, but not limited to, trees, waterways, and steep slopes. Where necessary, the project shall reduce the impervious cover to comply with other requirements of this Title.

of this subsection, which are established in Subsections (F)(1) through (F)(12) and Tables (B) through (Q) (collectively referred to as "Development Requirements by Subdistrict").

(2) Auditorium Shores Subdistricts Requirements

- (a) Within primary setback, the gross floor area is 2,000 square feet.
- (b) Within secondary setback, the gross floor area is 75,000 square feet.
- (c) This subsection applies to a non-residential use building that is adjacent to park land that adjoins Lady Bird Lake:
 - (i) At least 60 percent of the wall area that is between 2 and 10 feet above grade that is visible from park land or a public right-of-way that adjoins park land, must be constructed of clear or lightly tinted glass. The glass must allow pedestrians a view of the interior of the building.
 - (ii) Entryways or architectural detailing that breaks the continuity of nontransparent basewalls.
 - (iii) Except for transparent glass required above, natural building materials are required for an exterior surface visible from park land adjacent to Lady Bird Lake.

(3) Balcones Rock Cliff Subdistrict Requirements

- (a) Natural building materials are required for the exterior of a building visible from park land adjacent to Lady Bird Lake.
- (b) At least 75 percent of a structure that is visible from the Lady Bird Lake shoreline must be screened with trees and shrubs native to the Balcones Cliff Subdistrict and approved by the City arborist.

(4) Butler Shores Subdistrict Requirements

- (a) This subsection applies to a non-residential use building that is adjacent to park land that adjoins Lady Bird Lake.
 - (i) At least 60 percent of the wall area that is between 2 and 10 feet above grade that is visible from park land or a public right-of-way that adjoins park land, must be constructed of clear or lightly tinted glass. The glass must allow pedestrians a view of the interior of the building.
 - (ii) Entryways or architectural detailing that breaks the continuity of nontransparent basewalls.
 - (iii) Except for transparent glass required above, natural building materials are required for an exterior surface visible from park land adjacent to Lady Bird Lake.
- (b) A structure on property adjacent to and oriented toward Barton Springs Road requires a building base wall with a height not more than:
 - (i) 45 feet, if north of Barton Springs Road; or
 - (ii) 35 feet, if south of Barton Springs Road.
- (c) The portion of a structure built above the base wall and oriented towards Barton Springs Road must fit within an envelope delineated by a 70 degree angle starting

at a line along the top of the base wall with the base of the angle being a horizontal plane extending from the line parallel to and away from the surface of Barton Springs Road.

(5) Lamar Subdistrict Requirements

- (a) Surface parking is prohibited, except for a parking area for buses, van pooling, persons with disabilities, or public access to park land.
- (b) A garage access point or curb cut is prohibited if the pattern or alignment of the surrounding, existing sidewalks would be disrupted.

(6) North Shore Central Subdistrict Requirements

- (a) Surface parking is prohibited, except for a parking area for buses, van pooling, taxis, delivery services, commercial loading, public transportation, persons with disabilities, or public access to park land.
- (b) The location of a garage access point or curb cut must minimize the disruption of pedestrian traffic on existing sidewalks.
- (c) A structure must fit within an envelope delineated by a 70 degree angle starting at a line 45 feet above the property boundary line nearest Lady Bird Lake, Shoal Creek, or Waller Creek, with the base of the angle being a horizontal plane extending from the line parallel to and away from the surface of Lady Bird Lake, Shoal Creek, or Waller Creek.
- (d) This subsection applies to a non-residential use building that is adjacent to park land that adjoins Lady Bird Lake.
 - (i) At least 60 percent of the wall area that is between 2 and 10 feet above grade that is visible from park land or a public right-of-way that adjoins park land, must be constructed of clear or lightly tinted glass. The glass must allow pedestrians a view of the interior of the building.
 - (ii) Entryways or architectural detailing that breaks the continuity of nontransparent base walls.
 - (iii) Except for transparent glass required above, natural building materials are required for an exterior surface visible from park land adjacent to Lady Bird Lake.
- (e) A building may not be constructed within 80 feet of the existing east curb line of Congress Avenue south of First Street.

(7) Rainey Street Subdistrict Requirements

- (a) A property in the Rainey Street Subdistrict zoned Downtown Core (DC) after April 17, 2005 shall.
 - (i) For a building located on Red River Street from Cesar Chavez Street to Driskill Street or River Street from IH-35 to River Street's western terminus provide not less than 10 feet wide sidewalks along the street frontage;
 - (ii) Not include a use with a drive-through service;
 - (iii) Not exceed 40 feet in height for a residential or mixed-use building.

- (b) The Rainey Street Subdistrict is subject to the requirements and incentives as provided in Division 23-3E-2 (Downtown Density Bonus Program).
- (8) **Red Bluff Subdistrict Requirements.** Natural building materials are required on the exterior surface of a building adjacent to Lady Bird Lake.
- (9) **South Shore Central Subdistrict Requirements**
 - (a) This subsection applies to a non-residential use building that is adjacent to park land that adjoins Lady Bird Lake.
 - (i) At least 60 percent of the wall area that is between 2 and 10 feet above grade that is visible from park land or a public right-of-way that adjoins park land, must be constructed of clear or lightly tinted glass. The glass must allow pedestrians a view of the interior of the building.
 - (ii) Entryways or architectural detailing that breaks the continuity of nontransparent basewalls.
 - (iii) Except for transparent glass required above, natural building materials are required for an exterior surface visible from park land adjacent to Lady Bird Lake.
 - (b) A structure on property adjacent to and oriented toward Riverside Drive requires a building base wall with a height not more than:
 - (i) 45 feet, if north of Riverside Drive; or
 - (ii) 35 feet, if south of Riverside Drive.
 - (c) The portion of a structure built above the base wall and oriented toward Riverside Drive must fit within an envelope delineated by a 70 degree angle starting at a line along the top of the base wall with the base of the angle being a horizontal plane extending from the line parallel to and away from the surface of Riverside Drive.
- (10) **Travis Heights Subdistrict Requirements.** Subsection (E)(2) applies only to structures located between Bouldin and Blunn Creeks.
- (11) **University/Deep Eddy Subdistrict Requirements.** For a primary setback area, a secondary setback area, or an area within 50 feet of a secondary setback line the floor area ratio may not be increased under Subsection (E)(2).
- (12) **City Hall Subdistrict Requirements**
 - (a) A surface parking area located at or above grade is prohibited, except for a parking area for buses, van pooling, taxis, delivery services, commercial loading, public transportation, persons with disabilities, or public access to park land.
 - (b) The location of a garage access point or curb cut must minimize the disruption of pedestrian traffic on existing sidewalks.
 - (c) The height of a structure:
 - (i) Must fit within an envelope delineated by a 70 degree angle starting at a line 45 feet above the property boundary line nearest Lady Bird Lake, with the base of the angle being a horizontal plane extending from the line parallel to and away from the surface of Lady Bird Lake; or

- (ii) May not exceed a height of 100 feet.
- (d) This subsection applies to a non-residential use building that is adjacent to park land that adjoins Lady Bird Lake.
 - (i) At least 60 percent of the wall area that is between two and ten feet above grade that is visible from park land or a public right-of-way that adjoins park land, must be constructed of clear or lightly tinted glass. The glass must allow pedestrians a view of the interior of the building;
 - (ii) Entryways or architectural detailing that breaks the continuity of nontransparent basewalls.
 - (iii) Except for transparent glass required above, natural building materials are required for an exterior surface visible from park land adjacent to Lady Bird Lake.
- (G) **General Waterfront Overlay (WO) Zone Allowed Uses.** Uses allowed in the WO Zone must be consistent with those defined in the base zone, except as modified in this subsection.
 - (1) **Allowed Uses.** Subject to limitations in this subsection, a property subject to the Waterfront Overlay Zone may be used for the uses allowed in a property's base zone and the uses described in Subsection (G)(1)(a) through (c).
 - (a) A residential use that is allowed in any residential zone is also allowed in a Main Street, Mixed-Use Zone, or Regional Commercial base zone.
 - (b) A pedestrian-oriented use serves the public by providing goods or services, and include the uses listed in Division 23-13A-1 (Terms and Measurements) and other uses the Land Use Commission determines are pedestrian-oriented.
 - (c) Pedestrian-oriented uses are allowed on the ground floor of a structure in a Residential Multi-Unit Zone, Main Street, Mixed-Use Zone, or Commercial and Industrial Zone, and may be allowed above the ground floor of a structure if approved by the Land Use Commission.
 - (2) **Appeals**
 - (a) A Land Use Commission determination that a use is a pedestrian-oriented use allowed on the ground floor of a structure may be appealed to council.
 - (b) A Land Use Commission determination that a restaurant without drive-in service is a pedestrian-oriented use in the City Hall Subdistrict may be appealed to council.
 - (3) **Conditional Uses by Subdistrict.** Table (R) (Land Use Regulations by Subdistrict) establishes the uses that are prohibited or require a conditional use permit within a specific Waterfront Overlay Zone subdistrict.

Table 23N/C4DN/C9140 (C) Land Use Regulations by Subdistrict

	University/Deep Eddy	Red Bluff	East Riverside	Travis Heights	Rainey Street
Automobile Sales, Rental and Storage	—	CUP	—	—	N/C
Automobile Repair	—	CUP	—	—	N/C
Gas Station (includes car wash)	—	CUP	—	—	N/C
Gas Station (excludes car wash)	CUP	N/C	CUP	CUP	N/C
Parking Facility	—	CUP	—	—	N/C
Commercial Service and Repair	N/C	P	—	—	N/C
Any Drive-in Service	—	CUP	—	N/C	N/C
Hotel/Motel	CUP	N/C	CUP	CUP	N/C
Bar/Nightclub	N/C	N/C	N/C	N/C	CUP
Local Utilities	CUP	N/C	CUP	CUP	N/C
Manufacturing and Storage, Restricted	N/C	—	—	—	N/C
Agricultural Industry	N/C	—	—	—	N/C
Mining and Resource Extraction	N/C	—	N/C	N/C	N/C

Key for Table 23N/C4DN/C9130(C)CUP Conditional Use Permit
Required

— Prohibited Use

N/C No change from base zone
regulations, unless otherwise provided in
this Section

(H) **Additional Use Requirements by Subdistrict.** This subsection establishes additional requirements for land uses within certain subdistrict. A property must comply with the requirements in this subsection and any applicable requirements in Subsection (G).

- (1) **East Riverside Subdistrict.** A minimum of 50 percent of the net usable floor area of the ground level of a structure adjacent to Lady Bird Lake must be used for pedestrian-oriented uses. The Land Use Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.
- (2) **North Shore Central Subdistrict.** A minimum of 50 percent of the net usable floor area of the ground level of a structure adjacent to Lady Bird Lake must be used for pedestrian-oriented uses. The Land Use Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.
- (3) **South Shore Central Subdistrict.** A minimum of 50 percent of the net usable floor area of the ground level of a structure adjacent to Lady Bird Lake must be used for pedestrian-oriented uses. The Land Use Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.

- (4) **Auditorium Shores Subdistrict.** Except for a community events use, a structure located within the Auditorium Shores Subdistrict must comply with this subsection.
 - (a) A minimum of 50 percent of the net usable floor area of the ground level of a structure adjacent to Lady Bird Lake must be used for pedestrian-oriented uses. The Land Use Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.
 - (b) The area between the primary setback line and the secondary setback line must only be used for:
 - (i) Day Care;
 - (ii) Food Sales; or
 - (iii) Library, Museum, or Public Art Gallery;
 - (iv) Recreation, Outdoor Informal;
 - (v) Restaurant (without alcohol sales).
- (5) **Butler Shores Subdistrict.** A minimum of 50 percent of the net usable floor area of the ground level of a structure adjacent to Lady Bird Lake must be used for pedestrian-oriented uses. The Land Use Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.
- (6) **Zilker Park Subdistrict.** This subdistrict is limited to park-related structures.
- (7) **City Hall Subdistrict.** A minimum of 50 percent of the net usable floor area of the ground level of a structure adjacent to Lady Bird Lake must be used for pedestrian-oriented uses. The Land Use Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement. This requirement does not apply to a building used by the City for a governmental function.

23-4D-9150 Overlay Zone Boundaries Described

(A) **Boundaries Of The Capitol View Corridors (CVC) Overlay Zone**

- (1) In this section:
 - (a) Texas Plane Coordinate means the Central Zone of the Texas State Coordinate Systems as defined by the U.S. Coast and Geodetic Survey, dated 1945 and revised in March 1978.
 - (b) Capitol Dome means the part of the State Capitol located more than 653 feet above sea level at Texas Plane Coordinate X-2818555.07, Y-230595.65, being the center of the dome.
- (2) The CVC Overlay Zone boundaries are:
 - (a) The South Mall of the University of Texas corridor includes the area below the plane formed by connecting the following two lines:

- (i) The first line begins at an elevation of 594 feet above sea level at Texas Plane Coordinate X-2818794.86 Y-234376.98 and extends along a bearing of S 2° 7' 0.0" W for a distance of 3,790.248 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818654.87, Y-230589.32; and
 - (ii) The second line begins at an elevation of 594 feet above sea level at Texas Plane Coordinate X-2818628.71, Y-234341.64, and extends along a bearing of S 2° 39' 17.7" W for a distance of 3,748.053 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818455.09, Y-230597.61.
- (b) The Waterloo Park corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 496 feet above sea level at Texas Plane Coordinate X-2820189.70, Y-230799.91, and extends along a bearing of S 86° 21' 3.1" W for a distance of 1,650.373 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818542.67, Y-230694.87; and
 - (ii) The second line begins at an elevation of 480 feet above sea level at Texas Plane Coordinate X-2820300.13, Y-229756.25, and extends along a bearing of N 67° 16' 4.1" W for a distance of 1,939.019 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818511.73, Y-230505.53.
- (c) The Woolridge Park corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line at an elevation of 515 feet above sea level at Texas Plane Coordinate X-2816727.54, Y-229659.96, and extends along a bearing of N 60° 5' 58.0" E for a distance of 2,055.569 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818509.50, Y-230684.66; and
 - (ii) The second line begins at an elevation of 536 feet above sea level at Texas Plane Coordinate X-2816925.57, Y-229291.91, and extends along a bearing of N 54° 4' 50.4" E for a distance of 2,089.263 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818617.55, Y-230517.56.
- (d) The French Legation corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 539 feet above sea level at Texas Plane Coordinate X-2821177.01, Y-227894.81, and extends along a bearing of N 42° 37' 44.3" W for a distance of 3,765.605 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818626.83, Y-230665.30; and
 - (ii) The second line begins at an elevation of 539 feet above sea level at Texas Plane Coordinate X-2821144.99, Y-227833.18, and extends along a bearing of N 44° 39' 68.5" W for a distance of 3,787.992 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818482.12, Y-230527.25.

- (e) The Lamar Bridge corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 460 feet above sea level at Texas Plane Coordinate X-2813589.52, Y-227457.92, and extends along a bearing of N 56° 44' 9.5" E for distance of 5,874.699 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818596.90, Y-230686.48; and
 - (ii) The second line begins at an elevation of 460 feet above sea level at Texas Plane Coordinate X-2813419.55, Y-226934.03, and extends along a bearing of N 55° 25' 10.4" E for a distance of 6,308.017 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818613.13, Y-230514.22.
- (f) The South Congress at East Live Oak corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 574 feet above sea level at Texas Plane Coordinate X-2814945.42, Y-218622.48, and extends along a bearing of N 16° 19' 7.6" E for a distance of 12,505.861 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818459.22, Y-230624.51; and
 - (ii) The second line begins at an elevation of 574 feet above sea level at Texas Plane Coordinate X-2815051.19, Y-218649.13, and extends along a bearing of N 16° 48' 23.4" E for a distance of 12,450.162 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818651.03, Y-230567.50.
- (g) The MoPac Bridge corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 498 feet above sea level of Texas Plane Coordinate X-2808602.196, Y-229824.15, and extends along a bearing of N 86° 08' 29.3" E for a distance of 10,331.327 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinates X-2818562.808, Y-230495.95; and
 - (ii) The second line begins at an elevation of 485 feet above sea level at Texas Plane Coordinate X-2808930.31, Y-230333.64, and extends along a bearing of N 87° 50' 44.3" E for a distance of 9,628.852 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818552.35, Y-230695.61.
- (h) The South Lamar at La Casa Drive corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 656 feet above sea level at Texas Plane Coordinate X-2806422.18, Y-219725.23, and extends along a bearing of N 47° 47' 22.8" E for a distance of 16,290.678 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818488.35, Y-230670.13; and

- (ii) The second line begins at an elevation of 656 feet above sea level at Texas Plane Coordinate X-2806443.28, Y-219708.55, and extends along a bearing of N 48° 24' 0.0" E for a distance of 16,286.017 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818621.93, Y-230521.28.
- (i) The Barton Creek Pedestrian Bridge corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 445 feet above sea level at Texas Plane Coordinate X-2810872.3, Y-227047.993 and extends along a bearing of N 64° 30' 13.9" E for a distance of 8,465.138 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818513.104, Y-230686.414; and
 - (ii) The second line begins at an elevation of 460 feet above sea level at Texas Plane Coordinate X-2812177.38, Y-227545.58, and extends along a bearing of N 65° 15' 5.2" E for a distance of 7,070.209 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818598.22, Y-230505.43.
- (j) The Pleasant Valley Road at Lakeshore Drive corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 450 feet above sea level at Texas Plane Coordinate X-2826332.31, Y-219396.73, and extends along a bearing of N 34° 21' 30.0" W for a distance of 13,634.929 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818637.21, Y-230652.69; and
 - (ii) The second line begins at an elevation of 450 feet above sea level at Texas Plane Coordinate X-2826129.04, Y-218986.86, and extends along a bearing of N 33° 32' 6.6" W for a distance of 13,861.422 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818471.32, Y-230541.00.
- (k) The East Eleventh Street Threshold corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 517 feet above sea level at Texas Plane Coordinate X-281382.21, Y-228956.12, and extends along a bearing of N 61° 38' 31.4" W for a distance of 3,269.672 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818504.91, Y-230509.14; and
 - (ii) The second line begins at an elevation of 517 feet above sea level at Texas Plane Coordinate X-2821418.78, Y-228980.65 and extends along a bearing of N 58° 60' 12.7" W for a distance of 3,289.227 feet to a point 100 feet from the center of the Capitol Dome and located at Texas plane Coordinate X-2818604.20, Y-230682.75.
- (l) The North-Bound Lanes of IH-35 between the Municipal Police and Courts Building and West Tenth Street corridor includes the area below the plane formed by connecting the following two lines:

Overlay Zone Boundaries Described

- (i) The first line begins at an elevation of 501 feet above sea level at Texas Plane Coordinate X-2820624.99, Y-227858.68, and extends along a bearing of N 38° 3,433.34 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818475.11, Y-230535.59; and
 - (ii) The second line begins at an elevation of 491 feet above sea level at Texas Plane Coordinate X-2820738.78, Y-228232.855, and extends along a bearing of N 49° 33' 37.2" W for a distance of 3,219.746 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818627.946, Y-230664.138.
- (m) The South-Bound Lanes of the Upper Deck of IH-35 between Concordia College and the Martin Luther King Boulevard Overpass corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 618 feet above sea level at Texas Plane Coordinate X-2822432.77, Y-233117.96, and extends along a bearing of S 55° 43' 8.2" W for a distance of 4,627.079 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818609.48, Y-230511.74; and
 - (ii) The second line begins at an elevation of 648 feet above sea level at Texas Plane Coordinate X-2823639.09, Y-235471.26, and extends along a bearing of S 47° 0' 43.0" W for a distance of 7,045.415 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818485.40, Y-230667.38.
- (n) The North-Bound Lanes of IH-35 between Waller Creek Plaza and the Municipal Police and Court Building corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 498 feet above sea level of Texas Plane Coordinate X-2820389.72, Y-226977.21, and extends along a bearing of N 28° 17' 53.1" W for a distance of 4,058.419 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818465.79, Y-230550.62; and
 - (ii) The second line begins at an elevation of 498 feet above sea level at Texas Plane Coordinate X-2820450.80, Y-227277.98, and extends along a bearing of N 28° 14' 42.1" W for a distance of 3,823.132 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818641.53, Y-230645.90.
- (o) The North-Bound Lanes of IH-35 between Third Street and the Waller Creek Plaza corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 482 feet above sea level at Texas Plane Coordinate X-2820010.77, Y-225710.94, and extends along a bearing of N 17° 43' 6.5" W for a distance of 5,098.378 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818459.13, Y-230567.46; and
 - (ii) The second line begins at an elevation of 495 feet above sea level at Texas Plane Coordinate X-2820205.46, Y-226432.65, and extends along a bearing of N 20° 20' 46.9" W for a distance of 4,479.853 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818647.84, Y-230632.99.

- (p) The East Seventh Street Bridge Over the Texas-New Orleans Railroad corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 476 feet above sea level at Texas Plane Coordinate X-2829646.58, Y-224957.77, and extends along a bearing of N 62° 35' 42.1" W for a distance of 12,442.553 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818600.39, Y-230684.79; and
 - (ii) The second line begins at an elevation of 476 feet above sea level at Texas Plane Coordinate X-2829633.60, Y-224932.05, and extends along a bearing of N 63° 23' 0.0" W for a distance of 12,442.674 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818509.56, Y-230506.61.
- (q) The Longhorn Shores corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 435 feet above sea level at Texas Plane Coordinate X-2823082.973, Y-219866.265, and extends along a bearing of N 22° 23' 17.7" W for a distance of 11,647.863 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818646.489, Y-230636.201; and
 - (ii) The second line begins at an elevation of 435 feet above sea level at Texas Plane Coordinate X-2822949.654, Y-219866.561, and extends along a bearing of N 22° 46' 44" W for a distance of 11,594.666 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818462.531, Y-230557.772.
- (r) The Zilker Clubhouse corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 561 feet above sea level at Texas Plane Coordinate X-2807259.05, Y-230056.68, and extends along a bearing of N 86° 45' 42.0" E for a distance of 11,309.321 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818550.31, Y-230695.53; and
 - (ii) The second line begins at an elevation of 561 feet above sea level at Texas Plane Coordinate X-2807248.18, Y-229969.74, and extends along a bearing of N 87° 20' 15.0" E for distance of 11,324.650 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818560.60, Y-230495.80.
- (s) The Red Bud Trail corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 684 feet above sea level at Texas Plane Coordinate X-2801662.96, Y-236155.75, and extends along a bearing of S 72° 6' 10.9" E for a distance of 17,783.936 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818586.34, Y-230690.63; and

Overlay Zone Boundaries Described

- (ii) The second line begins at an elevation of 684 feet above sea level at Texas Plane Coordinate X-2801187.25, Y-236038.78, and extends along a bearing of S 71° 35' 16.8" E for a distance of 17,534.371 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818524.03, Y-230500.59.
- (t) The Enfield Road corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 534 feet above sea level at Texas Plane Coordinate X-2814317.00, Y-232540.28, and extends along a bearing of S 64° 7' 24.8" E for a distance of 4,664.000 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818513.37, Y-230504.76; and
 - (ii) The second line begins at an elevation of 534 feet above sea level at Texas Plane Coordinate X-2814166.24, Y-23616.36, and extends along a bearing of S 66° 27' 47.8" E for a distance of 4,827.718 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818596.90, Y-230686.48.
- (u) The Capitol of Texas Highway corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 850 feet above sea level at Texas Plane Coordinate X-2793153.22, Y-246055.75, and extends along a bearing of S 58° 62' 1.6" E for a distance of 29,736.832 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818607.06, Y-230681.07; and
 - (ii) The second line begins at an elevation of 850 feet above sea level at Texas Plane Coordinate X-2792663.44, Y-245928.13, and extends along a bearing of S 59° 10' 35.3" E for a distance of 30,091.057 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818504.12, Y-230509.60.
- (v) The 38th Street at Red River corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 609 feet above sea level at Texas Plane Coordinate X-2823695.84, Y-238333.37, and extends along a bearing of S 34° 12' 57.2" W for a distance of 9,290.302 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818471.78, Y-230650.98; and
 - (ii) The second line begins at an elevation of 609 feet above sea level at Texas Plane Coordinate X-2823785.05, Y-238418.94, and extends along a bearing of S 33° 9' 15.9" W for a distance of 9,410.983 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818638.21, Y-230540.07.

- (w) The Robert Mueller Airport corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 603 feet above sea level at Texas Plane Coordinate X-2831475.74, Y-237087.29, and extends along a bearing of S 62° 55' 39.9" W for a distance of 14,460.117 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818599.97, Y-230506.29; and
 - (ii) The second line begins at an elevation of 603 feet above sea level at Texas Plane Coordinate X-2831203.80, Y-237067.65, and extends along a bearing of S 63° 18' 20.5" W for a distance of 14,208.702 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818509.52, Y-230684.67.
- (x) The Martin Luther King Jr. Boulevard at IH-35 corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 570 feet above sea level at Texas Plane Coordinate X-2821822.13, Y-232059.98, and extends along a bearing of S 64° 15' 51.7" W for a distance of 3,582.5 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818595.97, Y-230504.39; and
 - (ii) The second line begins at an elevation of 570 feet above sea level at Texas Plane Coordinate X-2821665.89, Y-232039.68, and extends along a bearing of S 66° 46' 10.3" W for a distance of 3,431.901 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818512.97, Y-230686.35.
- (y) The Oakwood Cemetery corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 662 feet above sea level at Texas Plane Coordinate X-2823518.05, Y-231483.66, and extends along a bearing of S 78° 43' 9.6" W for a distance of 5,042.788 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818572.69, Y-230497.21; and
 - (ii) The second line begins at an elevation of 662 feet above sea level at Texas Plane Coordinate X-2823496.42, Y-231576.82, and extends along a bearing of S 79° 54' 22.8" W for a distance of 5,038.813 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818535.60, Y-230693.73.
- (z) The East 12th Street at IH-35 corridor includes the area below the plane formed by connecting the following two lines:
 - (i) The first line begins at an elevation of 525 feet above sea level at Texas Plane Coordinate X-2821503.64, Y-229689.85, and extends along a bearing of N 74° 46' 47.0" W for a distance of 3,086.184 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818525.71, Y-230500.05; and

- (ii) The second line begins at an elevation of 523 feet above sea level at Texas Plane Coordinate X-2821304.47, Y-229769.21, and extends along a bearing of N 71° 16' 29.8" W for a distance of 2,872.654 feet to a point 100 feet from the center of the Capitol Dome and located at Texas Plane Coordinate X-2818583.86, Y-230691.41.

(B) Boundaries of the University Neighborhood Overlay (UNO) Zone

- (1) **University Neighborhood Overlay Zone Boundaries.** The UNO Zone includes property located within the area bounded:
 - (a) On the north by a line along West 29th Street from Rio Grande Street to Guadalupe Street;
 - (b) On the east by a line along Guadalupe Street from West 29th Street to West 21st Street; West 21st Street from Guadalupe Street to the eastern ally of University Avenue; the eastern alley of University Avenue from West 21st Street to West MLK Jr. Boulevard;
 - (c) On the south by a line along West MLK Jr. Boulevard from the eastern alley of University Avenue to San Gabriel Street; and
 - (d) On the west by a line along San Gabriel Street to West 24th Street; west along West 24th Street to the western lot line of lot One of the Resubdivision of a Portion of Outlot Forty-Three; north along the western lot line of lot One of the Resubdivision of a Portion of Outlot Forty-Three to the alley between Lamar Boulevard and Longview Street; north along the alley to West 25th Street; east along West 25th Street to Longview Street; north along Longview Street to the northern lot line of lot Fifteen, Block Five of the Subdivision of Outlots Forty-Three, Forty-Four, Forty-Five and Fifty-Five; east along the northern lot line of lot Fifteen, Block Five of the Subdivision of Outlots Forty-Three, Forty-Four, Forty-Five and Fifty-Five to the alley between Longview Street and Leon Street; north along the ally to the northern lot line of lot Twenty-Three, Block Four of the Subdivision of Outlots Forty-Three, Forty-Four, Forty-Five and Fifty-Five; east along the northern lot line of lot Twenty-Three, Block Four of the Subdivision of Outlots Forty-Three, Forty-Four, Forty-Five and Fifty-Five to the northern lot lines of lots Twenty-Nine, Thirty, Thirty-One, Thirty-Two, and Three of the Harwood Subdivision; along the northern lot lines of lots Twenty-Nine, Thirty, Thirty-One, Thirty-Two, and Three of the Harwood Subdivision to San Gabriel Street; north along San Gabriel Street to the northern lot line of the Graham Subdivision of Outlots Fifty-Nine, Sixty, Sixty-Four, and the North Half of Fifty-Two; along the northern lot line of the Graham Subdivision of Outlots Fifty-Nine, Sixty, Sixty-Four, and the North Half of Fifty-Two to a point 160' east of San Pedro Street of the southern lot line of lot One of the Gortons Addition; from this point north to a point 160' east of San Pedro Street on the northern lot line of lot Four of the Gortons Addition; east along the northern lot line of lot Four of the Gortons Addition to San Pedro Street; north along San Pedro Street to West 28th Street; west along 28th Street to Salado Street; north along Salado Street to an alley on the northern lot line of Outlot 67, Division D of the Graham Subdivision; east along the alley to Rio Grande Street; north along Rio Grande Street to West 29th Street.
- (2) **University Neighborhood Overlay Zone Subdistrict Boundaries.** Figure (1) (University Neighborhood Overlay Zone Subdistricts) identifies the UNO Zone subdistrict boundaries.

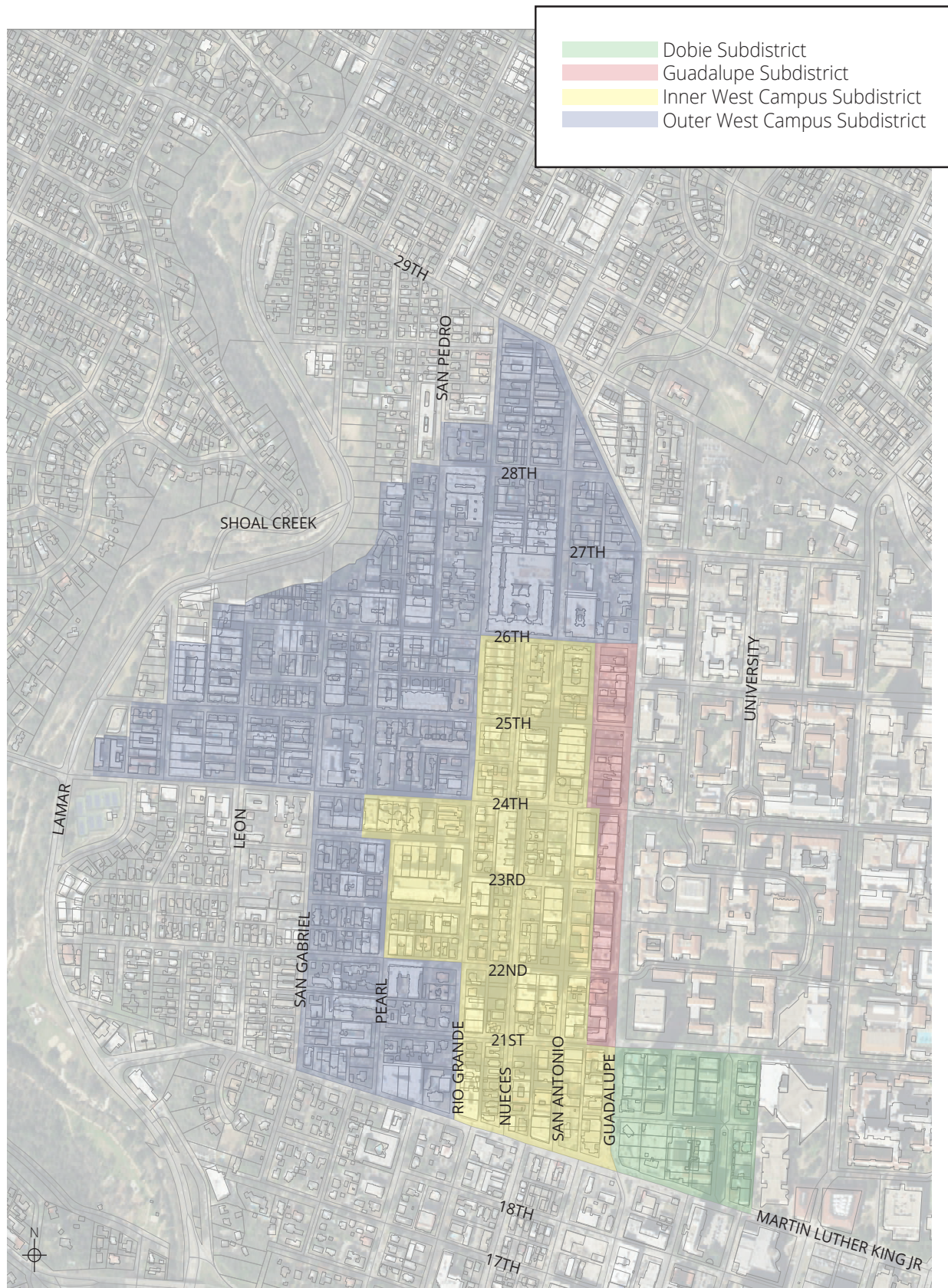


Figure 23-4D-9150(1): University Neighborhood Overlay Zone Subdistricts

(C) **Waterfront Overlay (WO) Zone Boundaries.** The WO Zone includes the property located in the following subdistricts:

- (1) University/Deep Eddy Subdistrict, which includes the property bounded by Lake Austin Boulevard on the north, the Lady Bird Lake shoreline on the south, MoPac Boulevard on the east, and Tom Miller Dam on the west;
- (2) Lamar Subdistrict, which includes the property bounded by the Missouri Pacific rail lines on the north, the Lady Bird Lake shoreline on the south, Lamar Boulevard on the east, and MoPac Boulevard on the west;
- (3) North Shore Central Subdistrict, which includes the property within the following boundaries:
 - (a) Eastern Area: beginning at the intersection of Cesar Chavez Street and Waller Creek, south along Waller Creek to Lady Bird Lake, west along Lady Bird Lake to a point due south of Colorado Street, north to and along Colorado Street to Second Street, east along Second Street to Trinity Street, south along Trinity Street to Cesar Chavez Street, and east along Cesar Chavez Street to the point of beginning; and
 - (b) Western Area: beginning at the intersection of the Lady Bird Lake shoreline and Lamar Boulevard, north along Lamar Boulevard to the Missouri Pacific rail lines, east along the Missouri Pacific rail lines to Nueces Street, south and east along Nueces Street to San Antonio Street, south along San Antonio Street to Cesar Chavez Street, due south to the Lady Bird Lake shoreline, and west along the Lady Bird Lake shoreline to the point of beginning;
- (4) Rainey Street Subdistrict, which includes the property bounded by First Street on the North, the Lady Bird Lake shoreline on the south, IH-35 on the east, and Waller Creek on the West;
- (5) Festival Beach Subdistrict, which includes the property bounded by the Lady Bird Lake shoreline on the south, Pleasant Valley Road on the east, IH-35 on the west, and Holly Street from IH-35 to Canadian Street, then north on Canadian Street to Willow Street, then east on Willow Street to Pleasant Valley Road on the north;
- (6) Red Bluff Subdistrict, which includes the property bounded by East First Street on the north, the Colorado River shoreline on the south, US 183 on the east, and Pleasant Valley Road on the west, except the portion of the property described as Lots 1 through 11 of the Bridgeview Business and Industrial Plaza subdivision, as shown on the plat recorded in Volume 77, pages 361-363, of the Plat Records of Travis County, Texas;
- (7) Montopolis/River Terrace Subdistrict, which includes the property bounded by the Colorado river shoreline on the north, the extension of Lakeshore Boulevard on the south, Highway 183 on the east, and Pleasant Valley Road on the west;
- (8) South Lakeshore Subdistrict, which includes the property bounded by the Lady Bird Lake shoreline on the north, the various and respective southern boundaries of all legal lots existing as of July 16, 1986, that abut the south public right-of-way of South Lakeshore Boulevard on the south, Pleasant Valley Road on the east, and the extension of Parker Lane on the west;
- (9) East Riverside Subdistrict, which includes the property bounded by the Lady Bird Lake shoreline on the north, Riverside Drive on the south, the extension of Parker Lane on the east, and IH-35 on the west;

- (10) Travis Heights Subdistrict, which includes the property bounded by the Lady Bird Lake shoreline on the north, the various and respective southern boundaries of all legal lots existing as of July 17, 1986, that abut the south public right-of-way of East Riverside Drive on the south, IH-35 on the east, and East Bouldin Creek on the west;
- (11) South Shore Central Subdistrict, which includes the property bounded by the Lady Bird Lake shoreline on the north, East Bouldin Creek on the south and east, and South First Street on the west;
- (12) Auditorium Shores Subdistrict, which includes the property bounded by the Lady Bird Lake shoreline on the north, the various and respective southern boundaries of all legal lots existing as of July 17, 1986, that abut the south public right-of-way of Barton Springs Road on the south, South First Street on the east, and Lee Barton Drive on the west;
- (13) Butler Shores Subdivision which includes the property bounded by the Lady Bird Lake shoreline on the north, the various and respective southern boundaries of all legal lots existing as of July 17, 1986, that abut the south public right-of-way of Barton Springs Road on the south, Lee Barton Drive on the east, and the centerline of Barton Creek on the west;
- (14) Zilker Park Subdistrict, which includes the property located within the boundaries of Zilker Park;
- (15) Balcones Rock Cliff Subdistrict, which includes the property bounded by the Lady Bird Lake shoreline on the north, Stratford Drive and Bee Creek Preserve on the south, Zilker Park on the east, and Tom Miller Dam on the west; and
- (16) City Hall Subdistrict, which includes the property bounded on the south by the Lady Bird Lake shoreline, on the north by Second Street, on the east by Colorado Street and a line extending south from Colorado Street to Lady Bird Lake, and on the west by San Antonio Street and a line extending south from San Antonio Street to Lady Bird Lake.

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23-4E: Supplemental to Zones General to Article

ZAP Motion #9

CodeNEXT does not improve parking garage requirements and provides no opportunities to convert existing structures into pedestrian-friendly amenities. Best practices dictate that the first street level of parking garages contain retail except for the necessary access points. With hundreds of parking garages throughout Austin, more street level retail space could be utilized through more up-to-date parking structure guidelines.

Article 23-4E: Supplemental to Zones

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Division 23-4E-1: Private Frontages

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23-4E-1010 Purpose

This division establishes the requirements to develop a private frontage, which is a component of a building located in the area between the building and the sidewalk. A private frontage provides an important transition and it interfaces between the public right-of-way and private property. These requirements are intended to ensure development that reinforces the highly-valued existing character and scale of the City's neighborhoods, corridors, and downtown.

23-4E-1020 Applicability and Additional Requirements

- (A) Article 23-4D (Specific to Zones) designates the zones that are subject to this division.
- (B) A lot subject to this division must comply with the requirements established in this division and are in addition to those found in Article 23-4D (Specific to Zones).
- (C) Right-of-way, public easements, and the Utility Criteria Manual may require an additional setback, easement, or both.
- (D) The accountable official who administers Chapter 14-11 (Use of Right-of-Way) must approve any encroachment into the right-of-way.

23-4E-1030 Private Frontages Overview

Table (A) (Private Frontage Types Overview) is an overview of the allowed private frontage types. In the event there is a conflict between this overview and the specific requirements found in other sections in this division, the requirements in the section control.

Table: 23-4E-1030(A) Private Frontage Types Overview

Porch: Projecting



A projecting porch has three sides open. The main facade of the building is set back from the sidewalk, resulting in a small front yard and can be defined by a fence or hedge to spatially maintain the edge of the street.

Porch: Engaged



An engaged porch has two adjacent sides of the porch attached to the building, while the other two sides are open. The main facade of the building is set back from the sidewalk, resulting in a front yard that can be defined by a fence or hedge to spatially maintain the edge of the street.

Stoop



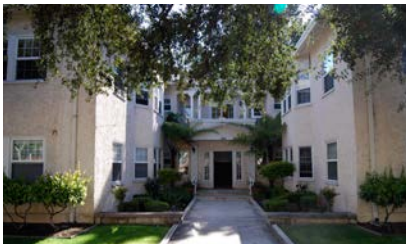
A stoop is elevated above the sidewalk to provide privacy within the building when it is located near the sidewalk. Stairs or ramps from the stoop may lead directly to the sidewalk or be side-loaded, running along the face of the building parallel to the facade.

Dooryard



A dooryard is created when the main facade of the building is set back a small distance from the public right-of-way. At the sidewalk, it is defined by a low wall or hedge. A dooryard is not for public circulation along the street. A dooryard may be raised, sunken, or at grade and is intended for ground-floor residential.

Forecourt



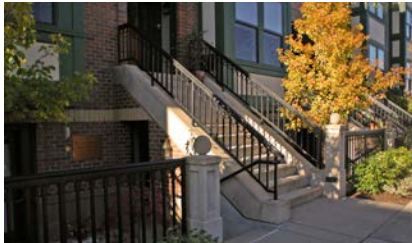
A forecourt can be used as an entry court or shared garden space for apartment buildings, or as additional shopping or restaurant seating area within retail and service areas. The building sits at or near the sidewalk and a small percentage of the building is set back, creating a small court space.

Terrace/ Loading Dock



A terrace provides at-grade access while accommodating a grade change. Usually there are multiple sets of steps up to the terrace, as well as ramps. The main facade of the building is at or near the sidewalk, with an elevated terrace along the building for public circulation.

Table: 23-4E-1030(A) Private Frontage Types Overview (continued)

Lightwell

A lightwell buffers residential, retail or service uses from the sidewalk and removes the private yard from public encroachment. The main facade of the building is set back from the right-of-way by an elevated terrace or a sunken lightwell.

Shopfront

A shopfront is intended for retail or live/work use and has substantial glazing at the sidewalk level. It may include an awning that overlaps the sidewalk and may be used with other frontage types. The main facade of the building is at or near the sidewalk with an at-grade entrance along the public right-of-way.

Gallery

A gallery is intended for buildings with ground-floor non-residential uses and may be one or two stories. The gallery should be used to provide the primary circulation along a frontage and extend far enough from the building to provide adequate protection and circulation for pedestrians. The main facade of the building is at the frontage line and the gallery element overlaps the sidewalk.

23-4E-1040 **Porch: Projecting**

- (A) A projecting porch is open on three sides, locates the habitable space behind the building setback line, and includes a roof.
- (B) A projecting porch shall comply with the requirements established in Table (A) (Size).
- (C) A fence that does not exceed three feet is allowed between front yards or between the sidewalk and front yard.

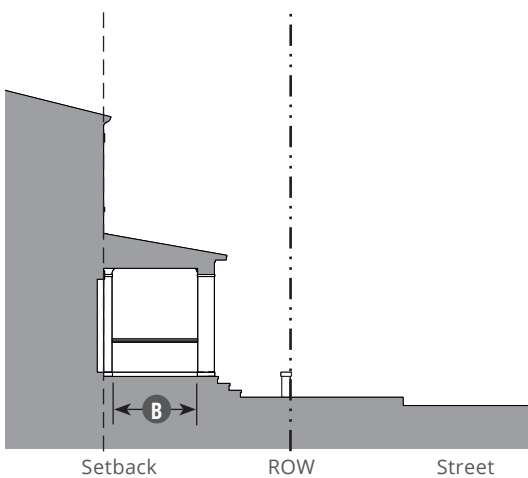


Figure 23-4E-1040(1) Section

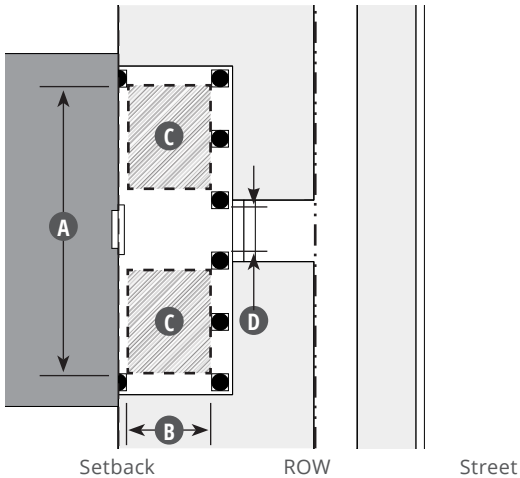


Figure 23-4E-1040(2) Plan

Key - - - - ROW / Lot Line - - - - Setback Line

Table 23-4E-1040(A) Size		
Width (clear) of a projecting porch must be at least	10'	(A)
Depth (clear) of a projecting porch must be at least	8'	(B)
Height of a projecting porch must not exceed	2 stories	
Number of furniture areas must be at least	1	
Size of furniture area (clear) must be at least	4' x 6'	(C)
Width (clear) of path of travel must be at least	3'	(D)

23-4E-1050 Porch: Engaged

- (A) An engaged porch is open on two sides, the other two sides are adjacent and attached to the building, and includes a roof.
- (B) An engaged porch shall comply with the requirements established in Table (A) (Size).
- (C) A fence that does not exceed three feet is allowed between front yards or between the sidewalk and front yard.
- (D) If a zone allows a porch and an encroachment, the porch and no more than two-fifths of the building facade may encroach. Figure 23-4E-1050(2) (Plan) illustrates this subsection.

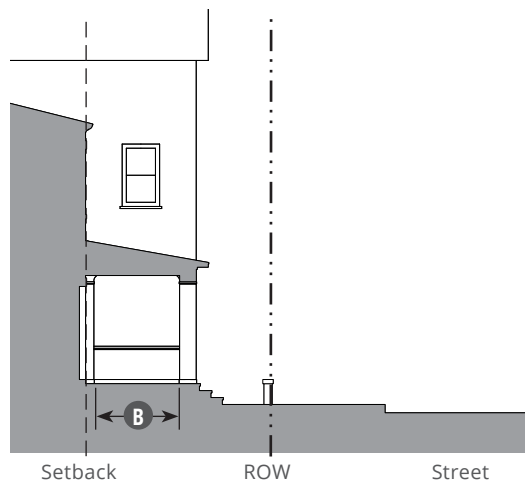


Figure 23-4E-1050(1) Section

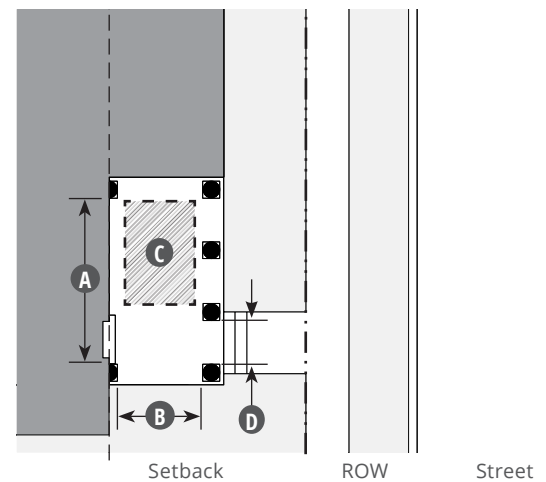


Figure 23-4E-1050(2) Plan

Key

--- ROW / Lot Line

--- Setback Line

Table 23-4E-1050(A) Size

Width (clear) of an engaged porch must be at least	10'	(A)
Depth (clear) of an engaged porch must be at least	8'	(B)
Height of an engaged porch must not exceed	2 stories	
Number of furniture areas must be at least	1	
Size of furniture area (clear) must be at least	4' x 6'	(C)
Width (clear) of path of travel must be at least	3'	(D)

23-4E-1060 **Stoop**

- (A) Stoops are appropriate for buildings with small setbacks.
- (B) A stoop shall comply with the requirements established in Table (A) (Size).
- (C) The entry door shall be covered or recessed to provide shelter from the elements.
- (D) Stairs, if constructed, shall be perpendicular or parallel to the facade of the building.
- (E) A ramp, if constructed, shall be parallel to the facade of the building or shall be along the side of the building.
- (F) A gate is not allowed.

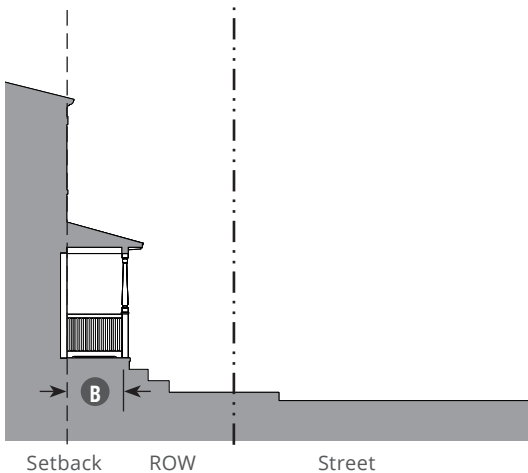


Figure 23-4E-1060(1) Section

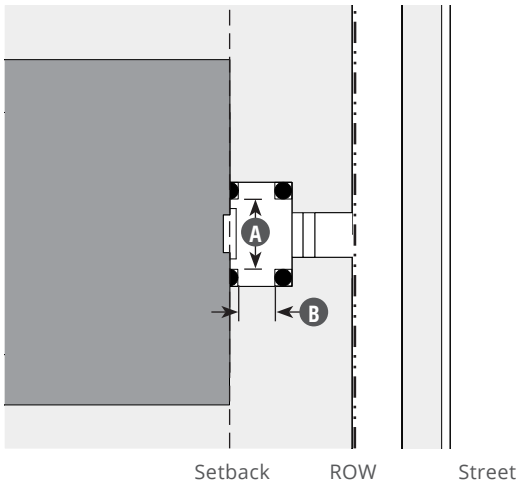


Figure 23-4E-1060(2) Plan

Key - - - - ROW / Lot Line - - - Setback Line

Table 23-4E-1060(A) Size		
Width (clear) of a stoop must be at least	5'	(A)
Width (clear) of a stoop must not exceed	8'	(A)
Depth (clear) of a stoop must be at least	5'	(B)
Depth (clear) of a stoop must not exceed	8'	(B)
Height of a stoop must not exceed	1 story	
Depth of recessed entries must not exceed	6'	

23-4E-1070 Dooryard

- (A) A dooryard may be raised, sunken, or at grade.
- (B) A dooryard shall comply with the requirements established in Table (A) (Size).
- (C) A dooryard shall not provide public circulation along a public right-of-way or provide access to more than one ground floor entry.
- (D) A fence or wall that does not exceed three feet shall be placed within the facade zone and may be used as seating. The fence or wall may not be defined by the building.
- (E) For a live/work or commercial use, dooryard requirements are in addition to shopfront frontage requirements. If the requirements in this section conflict with the requirements for shopfront frontage, this section controls.

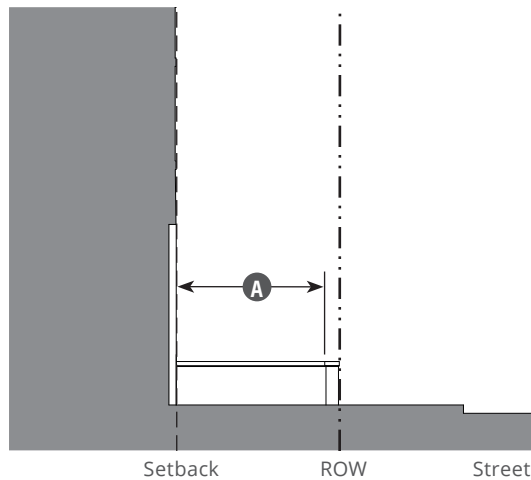


Figure 23-4E-1070(1) Section

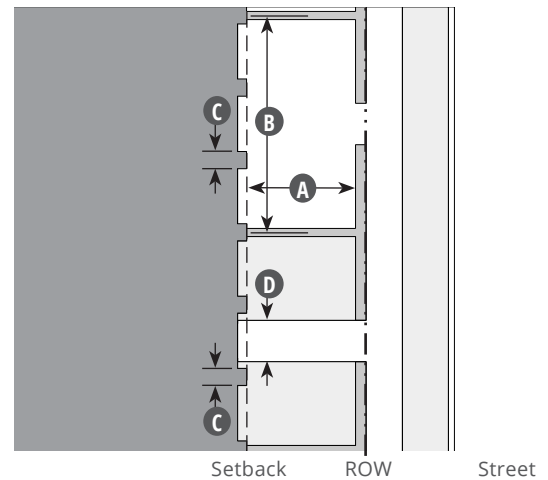


Figure 23-4E-1070(2) Plan

Key

--- ROW / Lot Line

--- Setback Line

Table 23-4E-1070(A) Size

Depth (clear) of a dooryard must be at least	8'	(A)
Length of a dooryard must not exceed	50'	(B)
Distance between glazing must not exceed	4'	(C)
Ground floor transparency must be at least	50% ¹	
Depth of recessed entries must not exceed	5'	
Width (clear) of path of travel must be at least	3'	(D)

¹ For Live/Work and Commercial Uses only

23-4E-1080 Forecourt

- (A) A forecourt may be used as an entry court or shared garden space for apartment buildings, or as an additional shopping or restaurant seating area within commercial areas.
- (B) A forecourt shall comply with the requirements established in Table (A) (Size).
- (C) A fence or wall that does not exceed three feet shall be placed within the facade zone. The fence or wall may not be defined by the building.

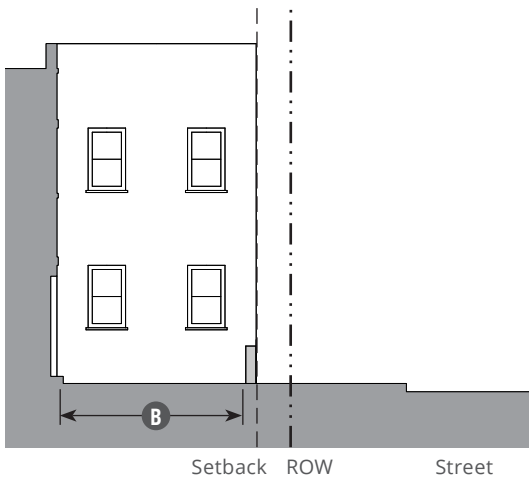


Figure 23-4E-1080(1) Section

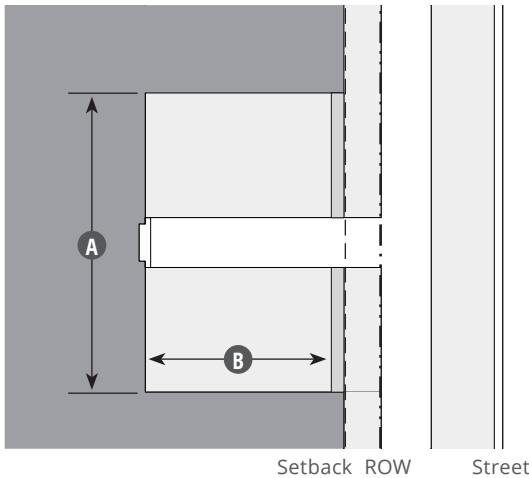
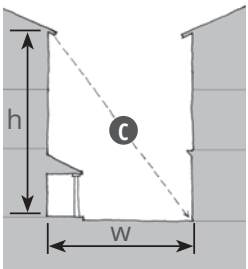


Figure 23-4E-1080(2) Plan

Key - - - - ROW / Lot Line - - - - Setback Line

Table 23-4E-1080(A) Size		
Width (clear) of a forecourt must be at least	12'	(A)
Depth (clear) of a forecourt must be at least	12'	(B)
Ratio of height to width must not exceed	3:2	(C)
The proportions and orientation of these spaces should be carefully considered for solar orientation and user comfort.		



23-4E-1090 Terrace

- (A) A terrace may be used to provide at-grade access while accommodating a grade change and may be used in historic industrial areas to mimic loading docks.
- (B) A terrace shall comply with the requirements established in Table (A) (Size).
- (C) Dead walls must be avoided and access must be maximized using multiple sets of steps to the terrace.
- (D) A guardrail that complies with the Building Code shall be installed around the edge of a terrace.
- (E) A low wall may be used as seating.
- (F) These requirements are in addition to shopfront frontage requirements. If the requirements in this section conflict with the requirements for shopfront frontage, this section controls.

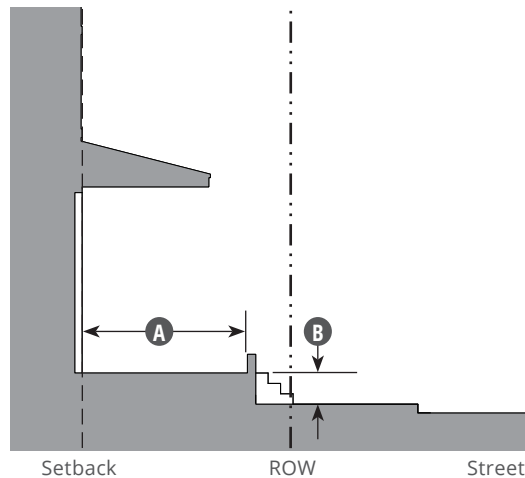


Figure 23-4E-1090(1) Section

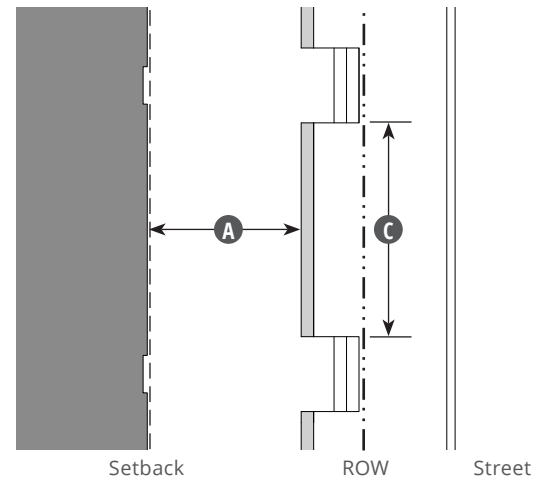


Figure 23-4E-1090(2) Plan

Key

--- ROW / Lot Line

--- Setback Line

Table 23-4E-1090(A) Size

Depth (clear) of a terrace must be at least	8'	(A)
Finish level above sidewalk must not exceed	24"	(B)
Length of a terrace must not exceed	150'	
Distance between stairs must not exceed	50'	(C)

23-4E-1100 Lightwell

- (A) A lightwell is used on a residential building to accommodate a change in grade.
- (B) A lightwell shall comply with the requirements established in Table (A) (Size).
- (C) A fence or wall that does not exceed three feet shall be placed along the setback in a manner that is separate from the building.

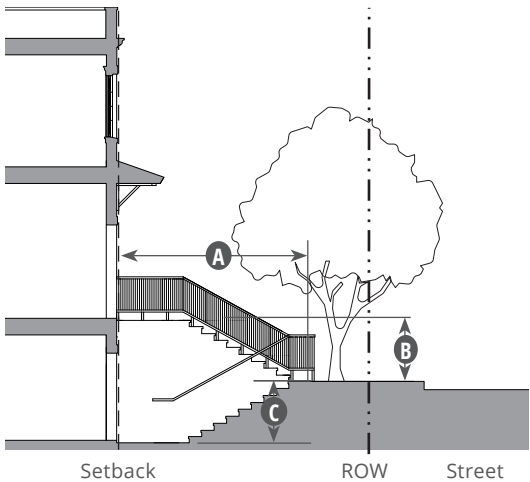


Figure 23-4E-1100(1) Section

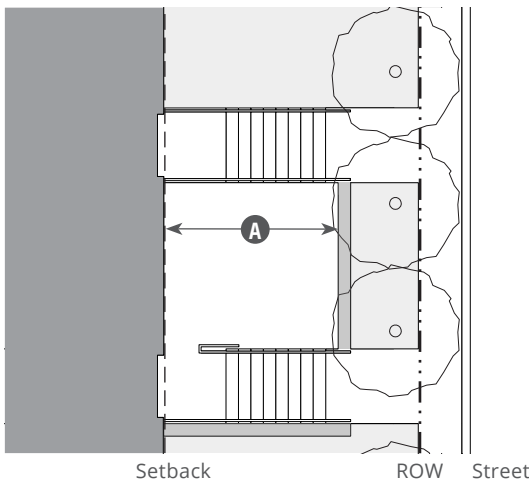


Figure 23-4E-1100(2) Plan

Key - - - - ROW / Lot Line - - - - Setback Line

Table 23-4E-1100(A) Size		
Depth (clear) of a lightwell must be at least	5'	(A)
Height of landing above sidewalk must not exceed	6'	(B)
Height of lightwell below sidewalk must not exceed	6'	(C)

23-4E-1110 Shopfront

- (A) A shopfront may be used in conjunction with other frontage types such as dooryards, arcades, and galleries.
- (B) A shopfront shall comply with the requirements established in Table (A) (Size).
- (C) A shopfront may include:
 - (1) accordion-style doors or windows or other operable windows that allow the building to open to the street; and
 - (2) doors that are recessed if the main facade is within the setback area.
- (D) The top of any glazing shall be within three feet of the unfinished ceiling. Figure 23-4E-1110(1) illustrates this requirement.
- (E) Awnings that are operable or open-ended are preferred to rounded and hooped awnings.

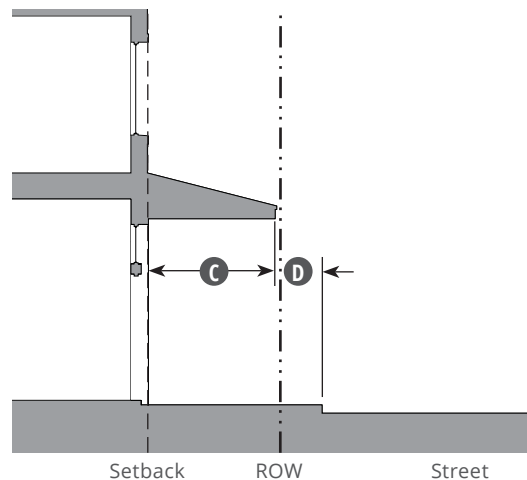


Figure 23-4E-1110(1) Section

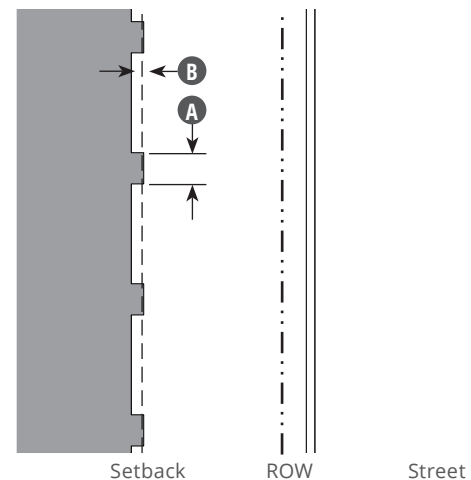


Figure 23-4E-1110(2) Plan

Key

--- ROW / Lot Line

--- Setback Line

Table 23-4E-1110(A) Size

Distance between glazing shall not exceed	2'	(A)
Ground floor transparency must be at least	75%	
Depth of recessed entries must not exceed	5'	
Depth of shopfront base must be at least	8"	(B)
Depth of shopfront base must not exceed	36"	(B)
Depth of awning must be at least	4'	(C)
Setback of awning from curb must be at least	2'	(D)

23-4E-1120 **Gallery**

- (A) A gallery shall project over a sidewalk and shall have a consistent depth along a frontage.
- (B) A gallery shall comply with the requirements established in Table (A) (Size).
- (C) An upper-story gallery that faces the street may not be used to comply with primary circulation requirements.
- (D) If an encroachment agreement is approved, then the gallery may encroach into the right-of-way.
- (E) These requirements are in addition to shopfront frontage requirements. If the requirements in this section conflicts with the requirements for shopfront frontage, this section controls.

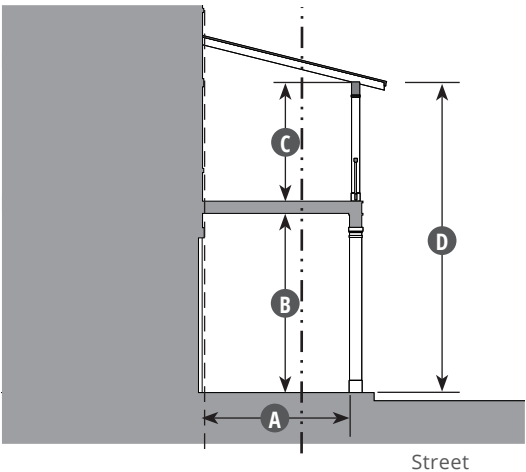


Figure 23-4E-1120(1) Section

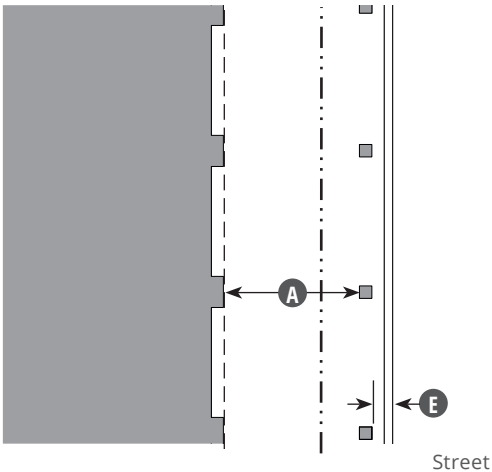


Figure 23-4E-1120(2) Plan

Key - - - - ROW / Lot Line - - - - Setback Line

Table 23-4E-1120(A) Size		
Depth (clear) of a gallery must be at least	8'	(A)
Height (clear) of a ground floor of a gallery must be at least	11'	(B)
Height (clear) of an upper floor of a gallery must be at least	9'	(C)
Height of a gallery must not exceed	2 stories	(D)
Setback of gallery from curb must be at least	2'	(E)

Division 23-4E-2: Outdoor Lighting

Contents

23-4E-2010	Purpose.....	1
23-4E-2020	Applicability	1
23-4E-2030	Requirements.....	1

23-4E-2010 Purpose

This division establishes the requirements for lighting practices and systems which will minimize light pollution, glare, and light trespass; conserve energy and resources while maintaining night time safety, utility, security, and productivity; and curtail the degradation of the night time visual environment.

23-4E-2020 Applicability

This division applies to development that requires a site plan.

23-4E-2030 Requirements

- (A) A site plan shall include a description of
 - (1) any lighting fixture not affixed to an existing or proposed building; and
 - (2) a proposed or existing lighting fixture that will be located in an adjacent right-of-way.
- (B) A description of a new lighting fixture may include catalog cuts and manufacturer illustrations that demonstrate the lighting fixture will comply with this division. A building permit application shall include a description of any lighting fixture affixed to an existing or proposed building.
- (C) **Fully Shielded and Full Cut-off Light Fixtures Required.** A fixture that is fully-shielded and full cut-off is required for an outdoor lighting application that illuminates:
 - (a) public street and pedestrian lighting;
 - (b) parking lots;
 - (c) sidewalks;
 - (d) recreational areas;
 - (e) billboards;
 - (f) product display area lighting; and
 - (g) building overhangs and open canopies.

(D) **Lighting of Building Facades.**

- (1) A fixture that illuminates a building or structure must be fully-shielded and full cut-off.
- (2) Except as otherwise provided in this subsection, a fixture that illuminates a building façade may only be used to highlight specific architectural features such as principal entrances and towers.
- (3) building that does not include trademarked design features more than 120 feet above ground level and that is located downtown and is at least 120 feet tall is not subject to the limitation in Paragraph (2).
- (4) A building façade may use uniform floodlighting if approved through the alternative equivalent compliance review process.

(E) **Directional Luminaries.** A directional luminaire may be used to illuminate a sign or a flagpole if the luminaire:

- (1) is installed and aimed to illuminate a specific object or area; and
- (2) does not shine directly onto neighboring properties or roadways, or distribute excessive light skyward.

(F) **Lamp or Fixture Substitution.**

- (1) After the applicable site plan or building permit is approved or after a site plan exemption is granted, a request to modify or substitute an outdoor lighting fixture or the type of light source shall:
 - (a) be submitted to the director for approval; and
 - (b) include documentation that the modification or substitution complies with this division.
- (2) An outdoor lighting fixture or the type of light source may not be modified or substituted unless approved by the director.

(G) **Non-Conforming Lighting.** An outdoor lighting fixture that does not comply with this division but complied with the City Code at the time it was installed is non-conforming.

Division 23-4E-3: Parking and Loading

Contents

23-4E-3010	Purpose.....	1
23-4E-3020	Applicability	1
23-4E-3030	Calculations	2
23-4E-3040	Parking Reductions	3
23-4E-3050	Parking for Persons with Disabilities	3
23-4E-3060	Off-Street Motor Vehicle Parking Adjustments	3
23-4E-3070	Loading	6
23-4E-3080	Bicycle Parking.....	7
23-4E-3090	Parking Lot Design.....	8

23-4E-3010 Purpose

- (A) This Division establishes the requirements for parking and access for motor vehicles and bicycles; and provides options to adjust parking requirements and to provide parking alternatives.
- (B) These requirements address the parking needs of new land uses and development in a manner that is consistent with the desired character and development patterns of the community and as outlined in the Comprehensive Plan.

23-4E-3020 Applicability

- (A) Except as provided in Subsection (F), this division applies to all zones and establishes the parking requirements for the development of:
 - (1) a new building;
 - (2) an enclosed addition that results in an increase in the gross floor area of 25 percent or more;
 - (3) a change in land use that increases the number of required parking spaces above the number of existing spaces;
 - (4) new residential units, except for accessory dwelling, on the same lot as an existing dwelling; or
 - (5) a change of occupancy or operation that requires more parking spaces than the existing occupancy or operation.
- (B) The requirements established in this division are in addition to requirements established in Article 23-4D (Specific to Zones) and Chapter 23-9 (Transportation).

- (C) Unless the addition, enlargement, or change in use for a cocktail lounge or restaurant with a late-hours permit, additional parking or loading facilities required under this division are based on the addition, enlargement, or change, and not for the entire building or use.
- (D) If a building or use is increased, enlarged, or changed for a cocktail lounge or restaurant with a late-hours permit, additional parking or loading facilities required under this division are based on the entire building or use.
- (E) **Nonconforming Uses, Structures or Lots.** When a nonconforming use is abandoned under Section 23-2G-1060 (Termination of Non-Conforming Use) and a new use is approved, the parking facilities required are based on the entire building, structure, or premises to the extent feasible, as determined by the director.
- (F) This division does not apply:
 - (1) to the existing single-family dwelling when an additional single-family dwelling is added to the lot with an existing single-family dwelling;
 - (2) to an accessory use;
 - (3) to a parking management district unless the expressly adopted as part of the parking management district.
- (G) A parking and loading area, circulation area, or queue line constructed or substantially reconstructed after January 1, 1985 shall comply with the design standards prescribed in the Transportation Criteria Manual and the landscape standards prescribed in Division 23-4E-4 (Landscaping).

23-4E-3030 Calculations

- (A) **Calculations.** A fraction greater than or equal to 0.50 is rounded up to nearest whole number. A fraction that is less than 0.50 is rounded down to the nearest whole number.
- (B) **Square Feet.** When the number of required parking spaces is based on floor area, the measurement of the floor area shall be in square feet and include the gross floor area except for enclosed or covered areas that are used for off-street parking or loading, or bicycle storage rooms.
- (C) **Number of Employees.** When the number of required spaces is based on the number of employees, the number of employees is determined using the work shift with the largest number of employees.
- (D) **Compact Car Spaces.** Not more than 40 percent of required parking spaces may be designed as compact car spaces.
- (E) For an individual residential unit, tandem parking spaces may count towards the required parking spaces.
- (F) A parking lift may be used to meet the parking space requirements for the residential portion of a structure.

23-4E-3040 Parking Reductions**Reduction of Parking.**

- (A) The parking spaces required for off-street parking may not be reduced below the number required by this division.
- (B) For development with existing parking that is nonconforming as described in Division 23-2G-2 (Nonconforming Parking), this division does not allow the number of parking spaces to be further reduced after the effective date of this Title.

23-4E-3050 Parking for Persons with Disabilities

- (A) A site must have
 - (1) a parking facility that
 - (a) is accessible to a person with disabilities; and
 - (b) complies with the Federal Americans with Disabilities Act (ADA) Standards, Texas Accessibility Standards, and the Building Code;
 - (2) routes of travel that connect the accessible elements of the site; and
 - (3) the number of accessible parking spaces required by the Building Code.
- (B) A single-family dwelling or duplex must comply with Section 24-12-243, R320 (Visitability).
- (C) **Appeal.** Except for a requirement imposed by federal or state law, a person may appeal the requirements of this section to the Board of Adjustment.
- (D) **Variance.** A variance granted under Subsection (C) applies only to the use for which the variance was granted and does not run with the land on which the use is located.

23-4E-3060 Off-Street Motor Vehicle Parking Adjustments

- (A) **Simple Parking Adjustments.** Table (A) (Simple Parking Adjustments) establishes the adjustments allowed when a site meets the requirements described in the table.
- (B) **Maximum Parking Adjustment.**
 - (1) Unless the site is part of a TDM program that allows multiple parking adjustments, the maximum cumulative parking reduction is 60%.
 - (2) The maximum cumulative parking adjustment for a site that is part of a TDM program that allows multiple parking adjustments is 100%.

Table 23-4E-3060(A) Simple Parking Adjustments		
Type	Requirement	Adjustment
Developments Located in Proximity to:		
Transit Corridor	Located within 1/4 mile of a transit corridor	20%
Transit Corridor	Located within 1/2 mile of a transit corridor	10%
Developments Providing the Following Features:		
Preservation of On-Site Trees	Preserve significant stands of trees or protected trees in addition to those required to be preserved by the Code, pursuant to protection measures specified in the Environmental Criteria Manual.	10%
Car-Share	Car-sharing vehicle provided on-site in compliance with requirements prescribed by the Planning Director by administrative rule.	20 spaces per car-share vehicle
Bicycle Parking		
On-site Bicycle Parking above requirements of Section 23-4E-3080.	For every 4 bicycle parking spaces, requirement may be reduced by 1 motor vehicle space	up to 5% max.
Buildings Providing Shower and Changing Facilities for employees		
Up to 20,000 gsf	One unisex shower and changing facility min.	10%
20,001 to 100,000 gsf	Two unisex shower and changing facility min.	10%
Greater than 100,000 gsf	Four unisex shower and changing facility min.	10%
Affordable Housing Bonus Program (AHBP)	Participation in Affordable Housing Bonus Program (AHBP)	40%

(C) Parking Adjustments Requiring Planning Director Approval.

- (1) **Shared On-Site Parking.** The director may approve a reduction in the required number of parking spaces when two or more uses on the same site or adjacent parcels have distinct and differing peak parking usage periods. The director may approve a reduction if:
 - (a) the applicant provides a parking demand study that complies with established professional practices;
 - (b) the reduction in number of required parking spaces is based on the parking demand study;

- (c) the owner of the parking lot signs and records a covenant that runs with the land, which guarantees the required parking will be maintained exclusively for the uses served and remain for the duration of the use; and
 - (d) the applicant submits a site plan and transportation engineering report that describes the following:
 - (i) the characteristics of each use and the differences in projected peak parking demand, including days or hours of operation;
 - (ii) potential reduction in vehicle movements resulting from the multi-purpose use of parking by employees, customers, or residents of the uses served;
 - (iii) potential improvements in parking design, circulation, and access resulting from joint parking;
 - (iv) compliance with shared parking guidelines in the Transportation Criteria Manual; and
 - (v) the amount of bicycle parking to be provided.
- (2) **Off-site Parking.**
- (a) The director may approve the location of all or a portion of the required or excess parking for a use on a site other than the site on which the use is located if the conditions provided in this section are met.
 - (b) The distance between the use and the site used for off-site parking may not exceed 1,000 feet when measured from the nearest off-site parking space to the nearest public entrance of the use that the parking serves. The distance measured:
 - (i) assumes that between adjacent intersections with traffic control signals, pedestrians cross at a marked crosswalk; and
 - (ii) does not cross private property unless access is authorized by the affected property owner.
 - (c) Pedestrian access between the use or the site and the off-premise parking area must be paved sidewalk.
 - (d) The off-site parking facility for a non-residential use may not be located in a residential zone.
 - (e) The applicant must provide a recorded parking agreement that
 - (i) includes a provision that the agreement may not be modified or terminated until notice is provided to the city; and
 - (ii) reflects the arrangement with the other site.
 - (f) The director may allow a reduction in the number of parking spaces if the off-site parking is shared and the requirements in Subsection (C)(1) are met.
- (3) A site plan submitted solely for shared or off-site parking on an existing parking lot is not required to include landscaping requirements established in Section 23-4E-4130 (Visual Screening).

- (4) **Transportation Demand Management.** The director may reduce the parking requirements based on an approved transportation demand management plan described in Article 23-9G (Transportation Demand Management).

23-4E-3070

Loading

- (A) An off-street loading facility shall:
 - (1) comply with the requirements established in Table (A)(Off-Street Loading Requirement);
 - (2) be maintained for the duration of the use or existence of the building that requires the facility; and
 - (3) be used exclusively for the purpose of loading and unloading goods, materials, and supplies.

- (B) A person shall provide an off-street loading facility for each non-residential use in a building or on a site.

Table 23-4E-3070(A) Off-Street Loading Requirement	
Floor Area	Requirement, min.
Up to 10,000 gsf	none required
10,001 to 100,000	1 off-street loading area
Greater than 100,000	1 off-street loading area per 100,000 gsf

- (C) A single building or site with multiple uses or occupancies may be served by a common loading space if the director determines that the loading space can adequately serve each use.
- (D) **Calculations.**
 - (1) The number of required off-street loading areas a person shall provide is based on gross floor area and Table 23-4E-3070(A).
 - (2) The gross floor area used to calculate the off-street loading requirement includes the exterior site area at a ratio of one square foot for every two square feet of area used for a commercial or industrial use.
 - (3) The gross floor area does not include enclosed or covered areas used for off-street parking or loading.

23-4E-3080 Bicycle Parking

- (A) **Required Spaces.** A site that includes multi-family use or a use other than residential, industrial, or agricultural shall comply with the requirements established in Table (A) (Bicycle Parking Requirement).

Table 23-4E-3080(A) Bicycle Parking Requirement

Multi-family Use

12 to 25 units	1 per 5 units
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Greater than 25 units	5 plus, 1 per 10 units
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Non-residential Uses except for Industrial and agricultural

Up to 10,000 gsf	4 spaces
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Greater than 10,000 gsf	4 spaces plus an additional 1 per 1,000 gsf
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- (B) **Location and Design.** Off-street bicycle parking shall be located and designed to comply with the Transportation Criteria Manual and the following requirements:
- (1) at least 50% of all required bicycle parking must be located within 50 feet of the principal building entrance which shall not be obscured from public view; and
 - (2) the remaining required bicycle parking may be located as follows:
 - (a) in a secure location within 50 feet of building entryways other than the principal building entrance;
 - (b) at employee only entrances;
 - (c) within a building; or
 - (d) in covered motor vehicle parking within 50 feet of a street level entrance; and
 - (3) the closest bicycle parking must be no farther than the closest motor vehicle parking space, excluding accessible parking spaces.

23-4E-3090 **Parking Lot Design**

- (A) A parking lot shall comply with this Title, including this section, and the Transportation Criteria Manual.
- (B) If there is a conflict between the requirements in this division and the Transportation Criteria Manual, this division controls.
- (C) A parking lot must comply with Division 23-4E-4 (Landscape) and Table 23-4E-3090(A).

Table 23-4E-3090.A Parking Lot Landscaping	
Parking Lot Medians	Width (min.)
Width	10'
Width: Existing Tree	10' or 1/2 critical root zone, whichever is greater
Parking Lot Tree Island	
End of Parking Run	1 at end of parking run
Middle of Parking Run, When Not Adjacent to Median	1 every 8 parking spaces
Width	10'
Depth	match parking depth
Parking Lot Medians	Width
Width	10'
Width: Existing Tree	10' or 1/2 critical root zone, whichever is greater
Parking Lot Perimeter	
Parking Lots adjacent to a public thoroughfare other than an alley	10'

PC Motion #96

In Section 23-4E-4020(A)(1)(c), add the language "and other residential house scale buildings"

In Section 23-4E-4040(B), revise the language as follows: B. This section applies to commercial or non-house scale multi-family development that is located adjacent to a public right of way.

In Section 23-4E-4050(C), revise to say "commercial zones"

In Section 23-4E-4040, Exempt CC and DC (and any other urban zones) from this section as written (and it is recommended that CC does not require any minimum setback).

In Section 23-4E-4040 Table A, reduce Front Yard Landscaping to 25%

In Section 23-4E-4050, remove Foundation Buffer because some areas should not have landscaping next to the slabs. Soils engineers are against this on larger buildings.

In Section 23-4E-4060(D), revise language to require an island every 10 spaces instead of 8 spaces

In Section 23-4E-4060(F)(2), revise language to require a 9 foot landscape island instead of the 10 foot

Direct Staff to take into consideration the results of the June 5th ASLA analysis of the Code, and ASLA's recommendation to move all landscape requirements to the Environmental Criteria Manual.

EC Motion #12

Direct staff to develop a program to apply the Functional Green Scoring system to all landscapes, regardless of impervious cover, to ensure that we are maximizing the benefits to be achieved via landscaping requirements and to achieve simplicity and consistency; Revise the width of landscape buffers for compatibility setbacks as follows: (a) Intermittent visual obstruction: 15 feet, (b) Semi-opaque: 15 feet, (c) Opaque: 15 feet; Remove details regarding plant quantities from the draft Code and move to criteria manual; Coordinate with the Water Forward Taskforce to incorporate recommendations that further incentivize beneficial reuse of non-potable water and reduce water demand, including requirements for auxiliary water use and beneficial reuse of stormwater for irrigation, with consideration for the need to use potable water during dry periods, especially to help establish new or young vegetation.

Division 23-4E-4: Landscape

Contents

23-4E-4010	Purpose	1
23-4E-4020	Applicability	2
23-4E-4030	Landscape Requirements	3
23-4E-4040	Front Yard Planting	4
23-4E-4050	Foundation Buffer	6
23-4E-4060	Surface Parking Tree Islands	7
23-4E-4070	Surface Parking Landscape Medians	8
23-4E-4080	Surface Parking Lot Perimeter Landscape	9
23-4E-4090	Intermittent Visual Obstruction Buffer	10
23-4E-4100	Semi-Opaque Buffer	11
23-4E-4110	Opaque Buffer	12
23-4E-4120	Functional Green	13
23-4E-4130	Visual Screening	14
23-4E-4140	Submittal Requirements	15
23-4E-4150	Final Inspection	15
23-4E-4160	Landscape Maintenance	16
23-4E-4130	Planting & Soil Standards	16

23-4E-4010 Purpose

As the City's population grows and development density increases, this division addresses the City's natural sense of place and character through the preservation, protection, and enhancement of the existing, natural, and planted landscapes. This division establishes minimum landscape requirements that provide ecological benefits at the site level. The requirements are meant to enhance, improve, and maintain the quality of the Austin landscape and provide the following benefits:

- (1) improves the environment's ecological balance by contributing to air purification, oxygen regeneration, ground water recharge, and storm water infiltration processes and aids in abating noise, glare, and heat;
- (2) preserves and replenishes the local stock of native trees and vegetation;
- (3) limits overcrowding on developed land and improves air quality;
- (4) provides visual buffering that safeguards and enhances property values;
- (5) protects public and private investment;
- (6) preserves and protects the City's unique identity and environment;

- (7) preserves the economic base that is attracted to the City's identity and environment;
- (8) provides cooling shade, which reduces urban heat; and
- (9) enhances public health, safety and general welfare.

23-4E-4020 **Applicability**

- (A) This division applies to:
 - (1) New development that requires a site plan and proposes a use, a building, or stormwater controls unless:
 - (a) the development substantially restores a building within one year after the building was damaged;
 - (b) the development restores a building designated as a historic landmark;
 - (c) the development is to construct a single family or duplex structure; or
 - (d) the development modifies a boat dock or shoreline .
 - (2) A project that includes substantial improvements or renovations and:
 - (a) the proposed and existing structures have a combined 5,000 square feet first floor (GFA) footprint; or
 - (b) the project cost exceeds 50 percent of the pre-project value of the structure.
- (B) Except as provided in Subsection (C), if this division conflicts with other provisions of this Title, this division prevails.
- (C) If this division conflicts with a provision of Chapter 23-9 (Transportation), Article 23- 10E (Drainage), Article 23-3C (Urban Forest Protection and Replenishment), or Article 23-3D (Water Quality), those provisions prevail.
- (D) The director may approve a site plan that proposes an alternative method to comply with this division if:
 - (1) the alternative method is based on criteria provided from the Environmental Criteria Manual; and
 - (2) the alternative method achieves or improves the purpose of the requirements of this division.

23-4E-4030 Landscape Requirements



Diagram 23-4E-4030(1) Overview of Landscape and Buffer Types

Table 23-4E-4030(A) Overview of Landscape and Buffer Types

Landscape Type	Section Number	Symbol
Front Yard Planting	23-4E-4040	A
Foundation Buffer	23-4E-4050	B
Surface Parking Area		
Tree Islands	23-4E-4060	C
Landscape Medians	23-4E-4070	D
Parking Lot Perimeter Landscape	23-4E-4080	E

Table 23-4E-4030(A) Overview of Landscape and Buffer Types (continued)

Landscape Type	Section Number	Symbol
Compatibility Buffers		
Intermittent Visual Obstruction	23-4E-4090	F
Semi-Opaque	23-4E-4100	G
Opaque	23-4E-4110	H
Other Types		
Functional Green	23-4E-4120	I ¹
Visual Screening	23-4E-4130	J

¹ Not shown in diagram

23-4E-4040 Front Yard Planting



Diagram 23-4E-4040(1) Front Yard Planting

Description

(A) This section establishes the landscaping requirements between the front building facade and the adjacent public right-of-way. Diagram 23-4E-4040(1)(Front Yard Planting) illustrate this section's requirements.

Applicability

(B) This section applies to a commercial or multi-family development that is located adjacent to a public right-of-way.

Requirements

(C) The minimum requirements for front yard planting are established in Table 23-4E-4040(A) (Front Yard Planting Requirements). In Table 23-4E-4040 (A) (Front Yard Planting Requirements), planted landscape area means the area of ground surface completely covered in living plant materials at maturity including; trees, shrubs and grasses, groundcovers, perennials and annuals.

(D) The front yard planting area is located between the front building facade and the front property line and it extends to the side property lines.

(E) The plantings required by this section may not conflict with structures, paving, or utility spacing requirements.

(F) If healthy, existing plant materials are located within an undisturbed area of the front yard planting area, each existing plant may count towards the minimum plant requirements in Table 23-4E-4040 (A) (Front Yard Planting Requirements).

(G) The plantings required by this section shall comply with tree diversity standards in Table 23-4E-4170(A) (Diversity Standards).

Green Infrastructure

(H) If an applicant integrates green stormwater infrastructure into the landscape design or uses stormwater to irrigate the front yard planting area, then the front yard planting area may comply with Section 23- 3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

Table 23-4E-4040 (A) Front Yard Planting Requirements				
When setback is:	Front Yard area is calculated ¹ from front property line to offset width of:	Min. % of Front Yard required to be Planted Landscape Area	Large and Medium trees required	Small trees required in Front Yard Landscape Area
0'	NA	NA	NA	NA
5'	2.5'	50%	NA	NA
>5' – 10'	10'	50%	NA	1/300 sf
>10' – 15'	12'	50%	1/400 sf	3/400 sf
20' – 30'	15'	50%	1/500 sf	3/500 sf

¹Square feet of driveway perpendicular to street within front yard is not included in calculation.

23-4E-4050 Foundation Buffer

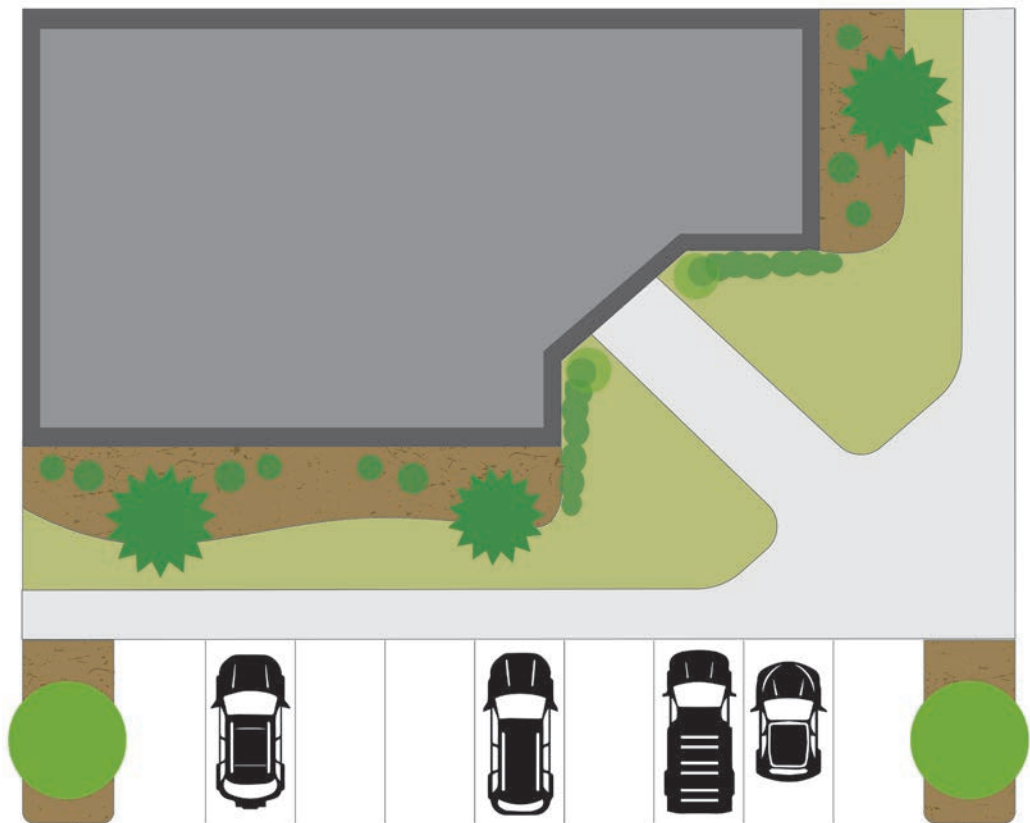


Diagram 23-4E-4050(1) Foundation Buffer

Description

(A) Except for an area area used for service/loading or a drive through facility, a foundation buffer is required between a structure’s exterior wall and any portion of a parking lot or drive aisle. Diagram 23-4E-4050(1)(Foundation Buffer) illustrates this section’s requirements.

(B) A foundation buffer is not required around service/ loading areas or drive-through facilities.

Applicability

(C) This section applies in each zone.

Requirements

(D) The minimum width of a foundation buffer is 10 feet. A sidewalk or ramp is not included in the calculation of width.

(E) The minimum length of a foundation buffer is equal to 75 percent of length of the adjacent exterior wall that faces a parking lot or drive aisle.

(F) A foundation buffer shall meet or exceed the minimum planting requirements established in Table 23-4E-4050(A)(Planting Requirements).

Table 23-4E-4050(A) Planting Requirements	
Plant Type	Quantity
Small trees	5 per 100 linear feet
Shrubs, grasses, and/or groundcovers	45 per 100 linear feet

(G) The plants required by this section shall comply with the tree diversity standards in Table 23-4E-4170(A)(Diversity Standards).

23-4E-4060 Surface Parking Tree Islands

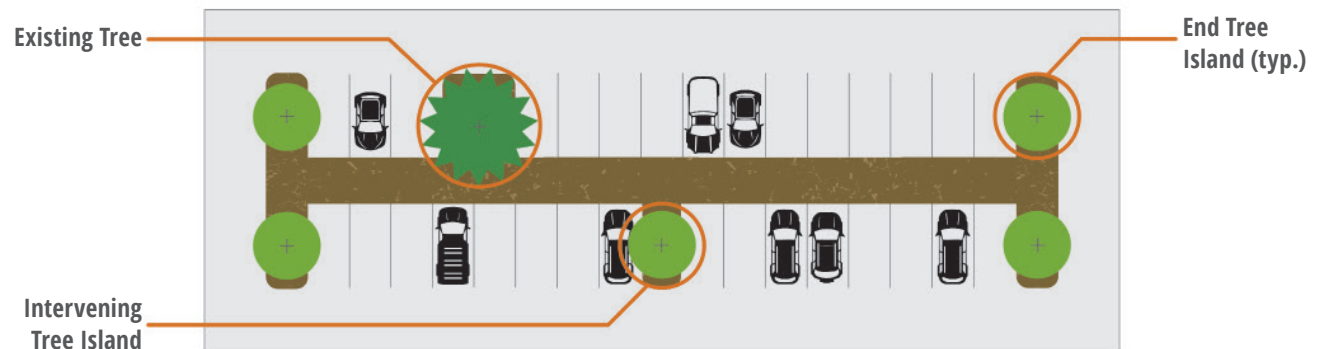


Diagram 23-4E-4060(1)

Description

(A) A tree island allows medium or large trees to grow in a parking area and serve to provide shade, reduce heat island effect, and promote plant diversity. Diagram 23-4E-4060(1) illustrates this section's requirements.

Applicability

(B) **Surface** parking **lots** shall include parking tree islands.

Requirements

Location and Quantity

(C) The last parking stall of each parking run must be separated from the adjacent travel lanes using a parking tree island.

(D) Except as provided in Subsection (E), the maximum number of consecutive parking stalls separated by a parking tree island is eight.

Exception for Saving Existing Trees

(E) To preserve existing trees and foster design flexibility based on context, the number and location of parking tree islands may be reduced provided the number of parking stalls between parking tree islands does not exceed 12.

Island Size for Proposed Trees

Tree Island Minimums

(F) A tree island with proposed trees, the tree island shall be (1) sized to comply with soil volume requirements; (2) at least ten feet wide measured from the **back of the curb**; and (3) at least the entire length of the adjacent parking stall.

(G) A tree island that preserves existing trees, the tree island shall be (1) the greater of 10 feet wide measured from the **back of curb to back of curb** or $\frac{1}{2}$ of the critical root zone; and (2) at least the entire length of a parking stall.

(H) The plants required by this section shall comply with the tree diversity standards in Table 23-4E-4170(A)(Diversity Standards).

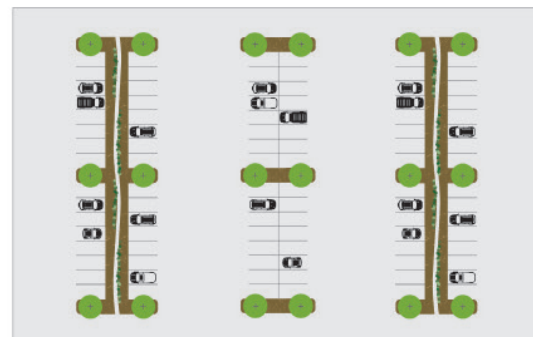
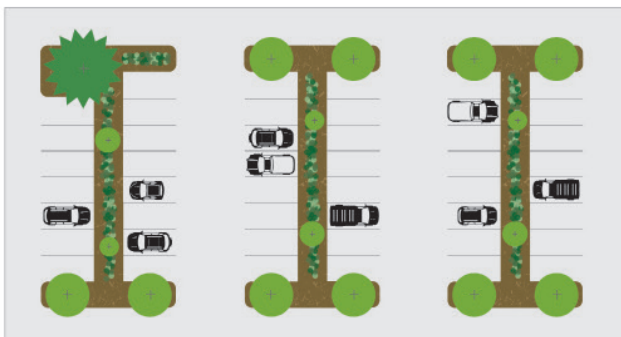
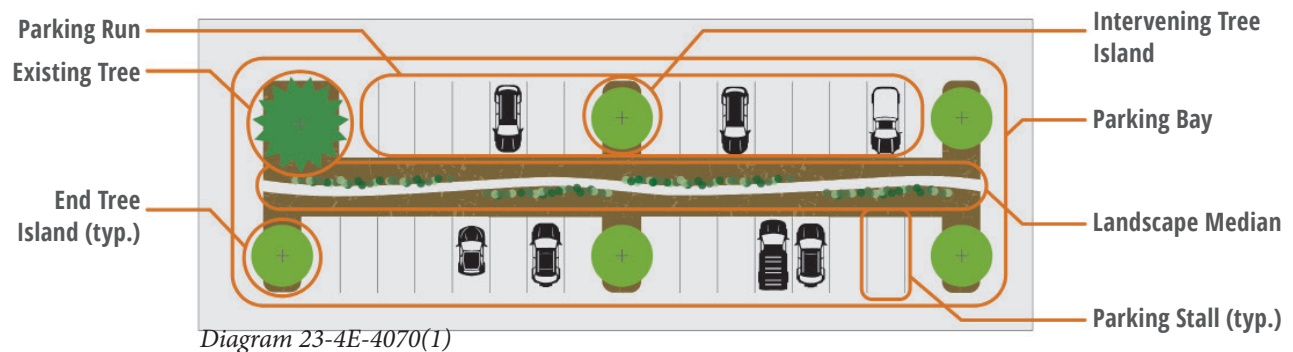
Green Infrastructure

(I) When new trees are planted in a parking tree island, the parking lot and each median shall be graded to receive stormwater in a manner that complies with the Environmental Criteria Manual, except when preserved existing trees do not allow.

(J) To allow runoff to enter planting areas as well as protect planting from automobile traffic, the edge of pavement treatment is required.

(K) If an applicant integrates green stormwater infrastructure into landscape design or uses the stormwater to irrigate parking tree islands, then the parking tree islands may comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

23-4E-4070 Surface Parking Landscape Medians



Description

(A) A landscape median separates parking runs on the interior portion of a parking lot. Diagrams 23-4E-4070(1), (2), and (3) illustrate this section's requirements.

Applicability

(B) A landscape median is required for a surface parking lot with two or more adjacent facing parking runs.

Requirements

Landscape Median Minimums

(C) **Standard:** A landscape median must be a minimum of ten feet wide when measured from the edge of the pavement unless the soil volume standards established in the Environmental Criteria Manual require a different width.

(D) **Optional:** Optional compliance is for parking lots with 120 or more parking stalls; every other parking bay may be eliminated if remaining parking bays are 15 feet wide and have 5-foot wide walkway running the entire length.

(E) The plants required by this section shall comply with tree diversity standards Table 23-4E-4170(A) (Diversity Standards).

Green Infrastructure

(F) When new trees are planted, each median shall be graded to receive stormwater in a manner that complies with the Environmental Criteria Manual, except when preserved existing trees do not allow.

(G) To allow runoff to enter planting areas as well as protect planting from automobile traffic, the edge of pavement treatment is required.

(H) If an applicant integrates green stormwater infrastructure into landscape design or uses stormwater to irrigate medians, then the median area may comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

23-4E-4080 Surface Parking Lot Perimeter Landscape



Description

(A) A parking lot perimeter landscape screens a surface parking lot from an internal circulation route (private or public) and maintains pedestrian vitality along a commercial center and a mixed use corridor serves pedestrian traffic.

Applicability

(B) A perimeter landscape is required for an off-street surface parking lot and public or private thoroughfares where landscaping is not otherwise required. This section also applies to a buffer that adjoins a surface parking lot where no cross-access is provided.

Requirements

(C) A perimeter landscape that consists only of plants: (1) must be at least ten feet wide; (2) must use evergreen shrubs that are at least three feet but no more than four feet; and (3) the shrubs must form a continuous visual screen.

(D) A perimeter landscape that includes plants and a fence or wall must be at least five feet wide. The fence or wall may not exceed three feet in height.

(E) If small trees are used, one tree must be planted per 20 linear feet.

(F) If small or medium shrubs are used, one shrub must be planted per three linear feet.

(G) The plants required by this section shall comply with the tree diversity standards Table 23-4E-4170(A) (Diversity Standards).

Green Infrastructure

(H) If an applicant integrates green stormwater infrastructure into landscape design or uses stormwater to irrigate the perimeter landscape area, this area may comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

23-4E-4090 Intermittent Visual Obstruction Buffer



Description

(A) An intermittent visual obstruction buffer is a compatibility buffer, is at least 20 feet in height, and creates the appearance of spatial separation but does not eliminate the visual contact between properties.

Requirements

(B) An intermittent visual obstruction buffer shall meet or exceed the minimum requirements established in Table 23-4E-4090(A) (Minimum Buffer Requirements).

Table 23-4E-4090(A) Minimum Buffer Requirements	
Minimum Buffer Width	8'
Min. planting per 100 linear feet	Aggregate Caliper
Large or Medium Trees	9"
Small Trees	12"
Shrubs per 100 linear feet	Quantity
Shrubs	15

(C) At least 75 percent of the trees and shrubs in the buffer must be evergreen species.

(D) The plants required by this section shall comply with the tree diversity standards Table 23-4E-4170(A) (Diversity Standards).

Green Infrastructure

(E) If healthy, existing plant materials are located within the undisturbed area of a buffer and the plant materials are listed in Appendices F and N of the Environmental Criteria Manual, then the plants may be used to comply with the minimum planting requirements in this section.

(F) If an applicant integrates green stormwater infrastructure into landscape design or uses stormwater to irrigate the perimeter landscape area, this area may comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

23-4E-4100 Semi-Opaque Buffer



Description

(A) A semi-opaque buffer is a compatibility buffer, is at least six feet in height, and creates the appearance of spatial separation but does not eliminate visual contact between properties.

Requirements

(B) A semi-opaque shall meet or exceed the minimum requirements established in Table 23-4E-4100(A) (Minimum Buffer Requirements).

Table 23-4E-4100(A) Minimum Buffer Requirements

Minimum Buffer Width ¹ 12'

Min. planting per 100 linear feet	Aggregate Caliper
Large or Medium Trees	12"
Small Trees	14"
Shrubs per 100 linear feet	Quantity
Shrubs	33

¹ Buffer width can be reduced to 8 feet when a 6-foot opaque wood fence, masonry wall, or vegetative wall system is utilized (same plant quantities apply).

(C) At least 75 percent of the trees and shrubs in the buffer must be evergreen species.

(D) The plants required by this section shall comply with the tree diversity standards Table 23-4E-4170(A) (Diversity Standards).

Green Infrastructure

(E) If healthy, existing plant materials are located within the undisturbed area of a buffer and the plant materials are included in Appendices F and N of the Environmental Criteria Manual, the plants may be used to comply with the minimum planting requirements in this section.

(F) If an applicant integrates green stormwater infrastructure into landscape design or uses stormwater to irrigate the perimeter landscape area, this area may comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

23-4E-4110 Opaque Buffer



Description

(A) An opaque buffer is a compatibility buffer, is at least 20 feet in height, prevents visual contact between uses, and creates the appearance of total separation.

Requirements

(B) An **opaque border** shall meet or exceed the minimum requirements established in Table 23-4E-4110(A) (Minimum Buffer Requirements).

Table 23-4E-4110(A) Minimum Buffer Requirements

Minimum Buffer Width ¹	15'
Min. planting per 100 linear feet	Aggregate Caliper
Evergreen Small Trees	20"
Shrubs per 100 linear feet	Quantity
Evergreen Shrubs	55

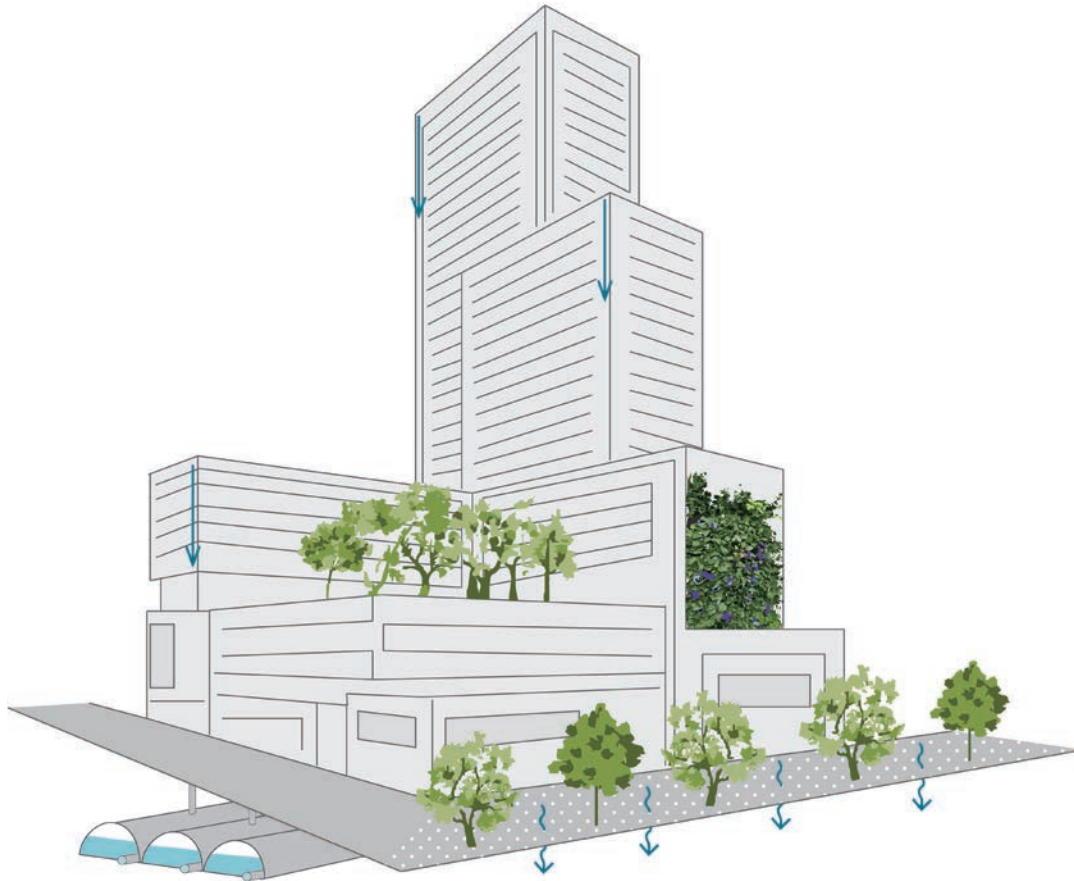
¹ Buffer width can be reduced to 8 feet when a 6-foot opaque wood fence, masonry wall, or vegetative wall system is utilized (same plant quantities apply).

(C) The plants required by this section shall comply with the tree diversity standards Table 23-4E-4170(A) (Diversity Standards).

Green Infrastructure

(D) If healthy, existing plant materials are located within the undisturbed area of a buffer and the plant materials are included in Appendices F and N of the Environmental Criteria Manual, the plants may be used to comply with the minimum planting requirements in this section.

(E) If an applicant integrates green stormwater infrastructure into landscape design or uses stormwater to irrigate the perimeter landscape area, this area may comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

23-4E-4120 Functional Green**Description**

(A) Functional Green Landscape is a two-tiered approach to fulfilling the purpose of the landscape code. The first tier requires landscape elements to be placed in specified areas of a site, thus protecting private and public investment, providing visual buffering, limiting overcrowding, and enhancing property values. The second tier is a scoring system that measures the ecosystem service value created by landscape; it is intended to improve ecological balance, replenish native vegetation, and enhancing public health, safety, and welfare.

(B) The Functional Green Score measures the total amount of ecosystem services provided by the landscape elements proposed for a development site. Landscape plans are required to reach a total target Functional Green Score based on the assigned value per square foot area of each landscape element in relation to the area of the site.

Applicability

(C) Functional Green Score applies to all sites that propose an impervious cover total exceeding 80 percent.

Requirements

(D) A Functional Green Landscape plan is required to:

- Comply with all applicable landscape and buffer types (23-4E-4050 through 23-4E-4130); and
- Reach the target score (prescribed in the ECM). If the target score cannot be reached by providing the applicable landscape and buffer types, landscape elements must be added in order to reach the target score.

(E) All sites must be designed to accommodate the minimum space requirements for each landscape element proposed to meet the Functional Green Score.

(F) Plant selection is prescribed in the ECM.

Calculating the Score

(C) To calculate the Functional Green Score, the total square foot area of each landscape element is measured and then multiplied by the Functional Green Multiplier, as prescribed in the Environmental Criteria Manual. The weighted-area value of each landscape element is then summed and divided by the total area of the site. (Landscape elements may be planted in the public right-of-way, but the site-area denominator does not include the area of the public right-of-way.)

23-4E-4130 Visual Screening**(A) General Requirements**

- (1) Screening is required to conceal specific areas of high visual or auditory impact or hazardous areas from off-site views.
- (2) Unless otherwise specified, such areas shall be screened at all times regardless of adjacent uses, zones, or other proximate landscape material.
- (3) The Environmental Criteria Manual shall prescribe screening methods that are consistent with this section.

(B) Items to be Screened

The following items shall be screened:

- (1) a large waste receptacle;
- (2) an area used for loading and service;
- (3) an outdoor storage area including inoperable vehicle, appliance, tire, building material, equipment, raw material, and aboveground storage tank that is located within 200 feet of a public right-of-way;
- (4) an exterior shopping cart storage area that is located adjacent to a single-family development;
- (5) ground-level mechanical equipment, except for utility meters;
- (6) a water quality and detention pond, except for a rain garden, biofiltration pond, or wet pond; and
- (7) telecommunication equipment and facilities.

23-4E-4140 Submittal Requirements

- (A) A landscape plan shall be submitted as part of a site plan and shall:
- (1) be sealed by a landscape architect licensed to practice in the State of Texas;
 - (2) be drawn to scale and include property boundaries, north arrow, engineer or architect's graphic scale, and date;
 - (3) delineate existing and proposed structures, parking bays/stalls, access ways and other vehicular use areas, sidewalks, utilities, easements, and height and voltage of power lines on the property or adjacent property;
 - (4) provide a plan to protect trees and to relocate existing trees and plant communities during construction, if appropriate;
 - (5) identify all existing vegetation, soils, landscape features and rock materials;
 - (6) show the specific location, species, size and quantities of proposed trees;
 - (7) depict proposed measures for stormwater control;
 - (8) include a "landscape legend" that identifies the common and scientific name of plants, quantities of the plants to be installed, and complies with the format established in the Environmental Criteria Manual;
 - (9) illustrate existing utilities and proposed utilities;
 - (10) include planting notes, details, and specifications;
 - (11) include irrigation notes (Environmental Criteria Manual Appendix O);
 - (12) provide tree mitigation analysis;
 - (13) provide landscape calculations; and
 - (14) provide accurate sheet numbering and title according to submittal-set legend.

23-4E-4150 Final Inspection

- (A) To ensure compliance with this division, the director will conduct a final inspection.
- (B) Before the director conducts a final landscape inspection, the director must receive a letter that is sealed by a licensed landscape architect that states that the landscape plan has been implemented consistent with the approved landscape plan.
- (C) Except as otherwise provided, the site must pass the final landscape inspection before the building official is authorized to issue a certificate of occupancy for the site.
- (D) If the director finds that the landscape required in the landscape plan is not living, healthy, or installed as required, the building official may not issue a certificate of occupancy.
- (E) If an applicant requests a certificate of occupancy before the approved landscape plan is implemented as required, the applicant must provide the director and the building official with a developer's agreement.

23-4E-4160 **Landscape Maintenance**

- (A) The owner of a site shall maintain a landscaped area that is not located in the public right-of-way and maintain the landscaped area in a manner that complies with this division, the approved landscape plan, and generally accepted horticultural practices.
- (B) A landscaped area must present a healthy and orderly appearance that is free from refuse and debris.
- (C) An owner who receives notification from the director that a plant in the landscaped area is dead, diseased, or severely damaged shall:
 - (1) remove the plant within 60 days from the date the director provided notice; and
 - (2) replace the plant within six months from the date the director provided notice, or by the next planting season, whichever comes first.
- (D) An owner required to replace a plant under Subsection (C) must use replacement plants that are the same size and species as shown on the approved landscape plan or must be of equal quality and size. A plant replaced under this section is not an amendment to the approved landscape plan.

23-4E-4170 **Planting & Soil Standards**

- (A) An owner shall ensure that each plant within a landscaped area thrives.
- (B) Each new planting required by this division shall comply with this section.
- (C) Trees
 - (1) At the time a medium or large tree is planted, it must have a caliper of at least three inches, as determined in the American Standard for Nursery Stock (ANSI Z60.1-2004, as amended).
 - (2) At the time an small tree is planted, it must have a caliper of at least two inches, as determined in the American Standard for Nursey Stock (ANSI Z60.1-2004, as amended).
 - (3) To curtail the spread of disease or the onset of an infestation in a plant species, new tree plantings must comply with the requirements in Table (A)(Diversity Standards).

Table 23-4E-4130(A): Diversity Standards	
Number of Trees Required	Number of Different Species Required
2 to 19	At least 2 different species
20-39	At least 3 different species
40 or more	At least 4 different species
Species to be provided in roughly equal proportions	

- (4) When an aggregate caliper inch (ACI) is utilized to derive the required amount of landscape or tree cover and the ACI figure includes a fraction, the applicant may:
 - (a) utilize a tree or trees with a caliper inch measurement that exceeds the minimum size required at planting; or

- (b) round the ACI figure up until the figure corresponds with a whole number of trees that meet size required at time of planting.

(D) Shrubs

- (1) Large Shrubs. A large deciduous or evergreen shrub shall meet the minimum required for a five gallon nursery container as determined by the American Standard for Nursery Stock standards, and have a mature growth height exceeding seven feet.
- (2) Medium Shrubs. A medium deciduous and evergreen shrub shall meet the minimum required for a three gallon nursery container as determined by the American Standard for Nursery Stock standards, and have a mature growth height between three and seven feet.

(E) Grasses and Groundcovers. Grasses and groundcovers shall meet the minimum required for a one gallon nursery container as determined by the American Standard for Nursery Stock standards.

(F) Materials

- (1) Landscape plant materials shall conform to the American Standard of Nursery Stock (ANSI Z60.1, as amended).
- (2) At least 80 percent of the new planting shall be native or adapted, drought tolerant species.

(G) Locations

- (1) Easement and Areas Near a Fire Protection System Plantings.
 - (a) Unless the easement holder consents, only groundcover may be planted or installed within any utility, drainage, water, or gas easement; or within five feet of a fire protection system.
 - (b) If the easement holder consents, an approved landscape plan may include trees, shrubs, grasses, and groundcover to be planted or installed within the easement or area within five feet of a fire protection system if the plantings support the purpose of this division.
- (2) Power Lines. If a tree will be installed within ten feet of an overhead electric conductor or underground electric facility, the tree must be a designated a utility-compatible tree in Appendix F of the Environmental Criteria Manual.
- (3) Transmission Facilities. If a tree will be installed within 50 feet of an existing or proposed electric transmission line, structure, or pole, the tree must be designated a utility-compatible tree in Appendix F of the Environmental Criteria Manual.
- (4) Pad Mounted Electric Equipment. If a tree will be installed within ten feet of a pad-mounted electric equipment, the tree must be designated a utility-compatible tree in Appendix F of the Environmental Criteria Manual. A tree may not be installed within five feet of pad-mounted electric equipment.
- (5) Sewer, Gas, and Water Lines. A tree species whose roots are known to cause damage to sewer, gas, and water lines shall not be planted closer than 12 feet to such utility lines unless the tree root system is completely contained with a barrier or is otherwise approved by the utility provider.
- (6) Fire Hydrants. Except for groundcover that is less than six inches in height, plantings may not be installed within three feet of any fire hydrant or fire protection system.

- (7) A new proposed tree shall be planted in a landscape area that is adequately dimensioned to meet the minimum soil volume required by Appendix F of the Environmental Criteria Manual Appendix F.
- (8) A tree shall be planted to maintain a minimum distance of five feet from any impervious surface.
- (9) A tree shall be planted such that, upon maturation, maximum height and spread shall not encroach within 10 feet of overhead power lines, street lights, or similar utility infrastructure.
- (10) A plant with thorns and sharp points shall be planted a minimum of five feet from a pedestrian area to promote safety.

(H) Soil Composition

- (1) Compacted soil and backfill material within a front yard planting area or a buffer planting area shall be excavated to a minimum depth of 12 inches and replaced with a combination of native topsoil and blended soils.
- (2) For a parking lot planting area, :
 - (a) the compacted base material shall be excavated down to native soil or a depth of three feet, whichever is deeper, and scarified;
 - (b) the excavated base material shall be replaced with native topsoil and blended soils; and
 - (c) the topsoil mix shall be placed in the planting area after the irrigation mainlines are installed as required by the Environmental Criteria Manual.

(3) Soil Characteristics

- (a) The landscape plan should create a blend of planting bed soils that provide specific portions of sandy soil, loamy soil, and organic compost for different areas of the landscape within the site.
- (b) The actual portions in the mix should be based upon laboratory data so that soil is formulated to provide optimal growing conditions for the actual plants installed or planted in the landscape area. The data should focus on:
 - (i) nutrients;
 - (ii) soil structure/mechanics; and
 - (iii) water availability/moisture retention.
- (4) Ground Stabilization. Disturbed areas and required landscape planting areas shall be stabilized and maintained as required in Section 23-3D-7020 (Development Completion).

(5) Soil Volume for Proposed Trees

- (a) A tree planting area must be adequately sized to accommodate the necessary functions of air, nutrient and water uptake, and root space.
- (b) A planting area that will contain proposed trees must meet the minimum tree soil volume requirements required in the Environmental Criteria Manual.
- (c) The minimum depth of a tree well for a proposed tree shall be three feet.

- (d) Each tree must be spaced appropriately to provide individual minimum soil volume requirements except that medium or large trees may be spaced closer together to allow the medium or large trees to share a maximum of 20 percent of the soil volume .
- (6) Soil Volume for Existing Trees. The minimum soil volume for an existing tree must comply with the Environmental Criteria Manual.
- (7) Soil Conditioning and Mulching. In a non-turf area, a minimum of three inches of organic mulch should be added to the soil surface area after planting.
- (l) Irrigation Requirements
 - (1) Except as provided in (4), permanent irrigation is required.
 - (2) If an automatic irrigation system is installed, the system shall comply with 30 Texas Administrative Code Chapter 344 (Landscape Irrigation), Chapter 6-4 (Water Conservation), and Appendix O of the Environmental Criteria Manual.
 - (3) A landscape area that contains plants and all new trees shall receive supplemental irrigation for a specific duration, as determined between landscape architect and landscape inspector, and the supplemental irrigation may be provided by one of the following methods:
 - (a) an automatic irrigation system;
 - (b) a hose attachment, if
 - (i) the hose attachment is located within 100 feet of the landscaped area; and
 - (ii) the landscape area is not separated from the hose attachment by a road or parking pavement; or
 - (c) a temporary, above ground automatic irrigation system, if the system complies with the water conservation requirements in the Environmental Criteria Manual.
 - (4) Permanent irrigation is not required for:
 - (a) an undisturbed natural area;
 - (b) undisturbed existing trees; and
 - (c) an area revegetated with native seed if the area is irrigated by temporary irrigation during the applicable establishment period as specified in the Environmental Criteria Manual.

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Division 23-4E-5: Docks, Bulkheads, and Shoreline

Contents

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23-4E-5010 Purpose

This division establishes the permit and license requirements; and applicable development requirements for docks, bulkheads, and shoreline access for the lakes within the jurisdiction of the City.

23-4E-5020 Applicability

- (A) This division applies to a structure or development:
- (1) In Lake Austin, Lady Bird Lake, or Lake Walter E. Long;
 - (2) Along the shore of Lake Austin in the area below 504.9 feet above mean sea level;
 - (3) Along the shore of Lady Bird Lake below 435 feet above mean sea level;
 - (4) Along the shore of Lake Walter E. Long; or
 - (5) Used for access to areas described in this subsection.
- (B) The Development Services Director shall implement and enforce this division.

23-4E-5030 Permit Required for Construction

- (A) A person may not modify a shoreline or construct or modify a dock, bulkhead, or shoreline access unless the person pays the applicable fees established by separate ordinance and obtains:
 - (1) An approved site plan, except as otherwise allowed under Section 23-6A-2010 (Site Plan Exemptions); and
 - (2) A building permit.
- (B) A site plan required under this section, must be signed and sealed by a licensed professional engineer and must include all information required by the director.
- (C) A permit obtained under this section shall be prominently displayed at the construction site until the final inspection and approval by the building official.
- (D) If a permit required under this section is not obtained before construction begins, the applicant shall pay an additional fee that is set by separate ordinance. Payment of the additional fee does not relieve the applicant from complying with the standards of this Title.
- (E) Where an inspection is required by state law, neither a certificate of compliance nor a final inspection may be issued for shoreline access unless the applicant has submitted an inspection report, signed by a QEI-1 Inspector registered with the Texas Department of Licensing and Regulation, stating that all applicable state standards have been met.

23-4E-5040 Structural Standards

- (A) In addition to other applicable standards of this Title, a dock must:
 - (1) Comply with the requirements of Article 23-11B (Technical Codes), including Division 23-11B-1 (Building Code), Division 23-11B-7 (Fire Code), and the Building Criteria Manual;
 - (2) Be designed and constructed in a manner that does not pose a hazard to navigation safety;
 - (3) Be braced to withstand pressure of wind and water when boats are tied to the dock; and
 - (4) If the dock is a floating dock, be supported by solid displacement flotation devices, with durable nonferrous protective coverings that are securely attached to the dock and capable of withstanding prolonged exposure to wave action and weather.
- (B) A bulkhead with a greater than 45 degrees vertical slope, for any portion greater than one foot in height, is not allowed on or adjacent to the shoreline of a lake that is subject to this division, unless the shoreline is located within an existing man-made channel.

23-4E-5050 Lighting and Electrical Requirements

- (A) **Lighting Required.** A dock shall be lighted in a manner that complies with this section and with Division 23-11B-4 (Electrical Code). This section does not apply to a dock located on an inlet or slough, unless the dock is on Bee Creek or Bull Creek.
- (B) **Requirements for Certain Docks.** This subsection applies to a dock that extends more than eight feet from the shoreline. The distance that a dock extends from a shoreline is measured perpendicular to the shoreline.
- (1) A dock must be continuously lighted with amber lights between sunset and sunrise each day.
 - (2) A dock must have at least one light station. Except as otherwise provided in this subsection, the light station must be located on the end of the dock and on the side that is farthest from and parallel to the shoreline. The light must be visible to a properly approaching watercraft.
 - (3) A dock that extends 30 feet or more from the shoreline, or that has a shoreline frontage of 25 feet or more, must have at least one light station on each side of the dock that does not face the shoreline.
 - (4) The standards of this subsection apply if the director determines that a dock described in Subsection (B)(3) may be a navigational hazard between sunset and sunrise.
 - (a) A dock that extends less than 50 feet from the shoreline must have a light station half way between the shoreline and the end of the dock that is farthest from the shoreline.
 - (b) A dock that extends 50 feet or more from the shoreline must have light stations from the shoreline to the end of the dock at intervals of not more than 25 feet, except that a light station may not be located within eight feet of the shoreline.
 - (c) A dock that has a shoreline frontage of at least 25 feet but less than 50 feet must have a light station located at each end of the dock on the side farthest from the shoreline.
 - (d) A dock that has a shoreline frontage of 50 feet or more must have light stations located at intervals of no more than 25 feet along its frontage.
 - (e) Light stations are required at each end of the dock on the side farthest from the shoreline.
- (C) **Light Fixture Requirements**
- (1) A required light station must have a two-bulb fixture with two working light bulbs that emit at least 112 lumens but not more than 400 lumens.
 - (2) Light bulbs or bulb covers must be amber; white light may not radiate from the fixture. Weatherproof lamp holders and junction boxes are required.
 - (3) Each light fixture must be wired with a switch operated by a photoelectric cell so that the lights will operate automatically during the hours that the dock is required to be lighted.
- (D) **Wiring.** Wiring on a dock must be enclosed in rigid conduit or weatherproof flexible conduit with appropriate fittings.

- (E) **Other Lights.** If lights other than those required by this section are installed on a dock, only an amber navigation light may cast a beam of light outward from the dock.
- (F) **Temporary Lights.** Docks subject to this section must provide temporary navigation lights that meet the standard of this section during construction and until the permanent navigation lights installed on the dock are working.
- (G) **Violation.** An offense under this section is punishable by a fine of not less than \$200.

23-4E-5060 Site Development Standards for Docks, Marinas, and Other Lakefront Uses

- (A) **General Standards.** A fence may not extend:
 - (1) More than 40 feet beyond the shoreline; or
 - (2) Into the water beyond the shoreline unless the fence:
 - (a) Was part of a commercial livestock operation, other than raising domestic pets, existing before or on April 17, 1994;
 - (b) Is constructed of smooth wire or mesh; and
 - (c) Includes a navigation buoy indicating "DANGER", in accordance with the Texas Water Safety Act, installed at the end of the fence, unless the fence does not extend further beyond the shoreline than an immediately adjacent dock.
- (B) A fence described in Subsection (A)(2) shall be removed if the livestock operation ceases.
- (C) **Standards for Docks.** A dock, or similar structure, must comply with the requirements of this subsection:
 - (1) A dock may extend up to 30 feet from the shoreline, except that the director may require a dock to extend a greater distance from the shoreline if the director finds it necessary to ensure navigation safety.
 - (2) No portion of a dock shall extend more than 20 percent of a channel width as measured by a line that is perpendicular to the centerline of the channel and that extends from the shoreline where the dock is located to the opposite shoreline.
 - (3) A dock may not be constructed closer than 10 feet to the side property line, regardless of the side setback applicable within the base zone.
 - (4) The width of a dock is measured parallel to the shoreline of the lot or tract where the dock is proposed, and including all access and appurtenances, may not exceed:
 - (a) 20 percent of the shoreline frontage, if the shoreline width exceeds 70 feet; or
 - (b) 14 feet, if the shoreline frontage is no greater than 70 feet.

- (5) The footprint of a dock, including the portion of a cut-in slip, attached access structures, or roof overhang, may not exceed:
 - (a) 1,200 square feet for a dock that is accessory to a principal residential use; or
 - (b) For a cluster dock, 600 square feet multiplied by
 - (i) The number of dwelling units in a multi-family development; or
 - (ii) The number of principal residential structures in a subdivision, if the dock will be located in a common area that fronts Lake Austin or Lady Bird Lake and lots within the subdivision have perpetual use rights to the common area.
 - (6) A dock may not exceed 30 feet in height as measured from the highest point of the structure above the normal pool elevation of the lake.
 - (7) No portion of a dock may be enclosed, except for an enclosed storage closet that is:
 - (a) Limited to no more than 48 square feet for each principal residential use associated with the dock; and
 - (b) Oriented to minimize cross-sectional area perpendicular to flow.
 - (8) The dock must be designed and constructed to meet the following requirements:
 - (a) Except for storage closets permitted in Subsection (C)(7), all solid structural supports and other materials used for enclosure, including lattice, wire panels, seat walls, and screening, must be at least 66 percent open, not including mesh for insect screening that is at least 66 percent open;
 - (b) Framing materials that are capable of being converted to support walls or windows may not be used;
 - (c) Mesh used for insect screening that is at least 66 percent open does not count towards the total enclosure percentage; and
 - (d) Percentage of required openness is calculated per side, with the assumed height of eight feet per floor when no roof is proposed.
 - (9) The number of motorboats anchored, moored, or stored on a dock may not exceed:
 - (a) Two for a principal residential use utilizing an individual dock that is not part of a cluster dock; or
 - (b) The number of single-family or multi-family residential units that:
 - (i) Have a perpetual right to use of a cluster dock located in a common area of the residential subdivision or multi-family development; and
 - (ii) Do not use a dock other than a cluster dock.
 - (10) For purposes of determining the total number of motorboats that may be anchored, moored, or stored on a dock or over water, one personal watercraft is equivalent to one-half of a motorboat.
- (D) Shoreline access must be screened from the view of adjacent Residential House-Scale Zones. A person complies with this section by providing vegetation and tree canopy, as prescribed by rule, or using a screening method prescribed by rule. The applicant shall maintain the screening in compliance with this section.
- (E) Construction of a boat ramp is prohibited, unless the boat ramp is constructed on public land and dedicated for public use.

(F) **Standards for a Marina or Cluster Dock.** A marina area or cluster dock must comply with the requirements in this subsection:

- (1) A parking lot or permanent structure, other than a dock or a combined storage area on the water's edge, must be set back at least 100 feet from the shoreline.
- (2) Sanitation facilities must be provided and comply with the following requirements:
 - (a) Permanent sanitation facilities are required for a marina or common area with 10 or more boat slips; or
 - (b) Temporary or permanent sanitation facilities are required for a marina or common area with less than 10 boat slips.
- (3) A facility operator shall:
 - (a) Remove garbage in a timely manner; and
 - (b) Provide for the on-site collection of garbage at a marina or common area; and
 - (c) Provide at least one garbage can with a capacity of at least 32 gallons for each four picnic units and for each four boat slips.

(G) **Docks as an Accessory Use.** A dock is permitted as an accessory use to a residential use if the requirements of this subsection are met.

- (1) A dock may be located off-site.
- (2) A dock may not include habitable space or living quarters or other elements not necessary to the function of a dock, including, space conditioning, sinks, toilets, or wastewater or potable water lines or connections.
- (3) A dock may only include the following equipment and means of access:
 - (a) A storage closet that complies with Subsection (C);
 - (b) A roof;
 - (c) A second floor;
 - (d) Marine lockers;
 - (e) Railings;
 - (f) A non-potable water pump and hose bib;
 - (g) Electrical connections;
 - (h) Lighting and fans;
 - (i) Non-mechanized access, including a staircase, pedestrian bridge, gangway, and gates;
 - (j) Non-mechanized recreational equipment, including, but are not limited to slides or swings; and
 - (k) Accessories or slips that may accommodate the mooring or storage of boats that complies with Subsection (C).
- (4) Only one dock is allowed for a principal residential use, even if the use is located on more than one lot.

23-4E-5070 City Licensing Standards for Docks, Marinas, and Other Lakefront Uses

- (A) No living quarters or business, including a marina, may be constructed into or above a lake that is subject to this division, unless the city council approves a license agreement for the use after receiving a recommendation from the Land Use Commission.
- (B) A license agreement from the City is not required for a dock located along Lake Austin, Lady Bird Lake, or Lake Walter E. Long, regardless of any easements or other ownership rights held by the City.

23-4E-5080 Environmental Protection

- (A) In addition to other applicable standards of this Title, a dock, bulkhead, or shoreline access must be designed, constructed, and maintained in accordance with the applicable requirements of this section.
- (B) A retaining wall, bulkhead, or other erosion protection device must be designed and constructed to minimize wave return and wave action in accordance with the Environmental Criteria Manual.
- (C) A marine fuel facility or service station must comply with the standards of Chapter 6-2 (Hazardous Materials) and must be designed, maintained, and operated in a manner that prevents the spilling or leaking of fuel or petroleum products into the water.
- (D) The maintenance and repair of watercraft must be performed in a manner that prevents discharge of fuel, oil, or other pollutants into the water.
- (E) Containers of hazardous materials, fuel, oil, herbicides, insecticides, fertilizers, or other pollutants must not be stored on docks extending into or above Lake Austin, Lady Bird Lake, or Lake Walter E. Long.
- (F) Construction of shoreline access structures must minimize disturbance to woody and herbaceous vegetation, preserve the tree canopy, and replace herbaceous ground cover to the extent practicable.
- (G) A marina or marine fuel service facility or service station must provide adequate fire protection approved by the Fire Chief of the Austin Fire Department in compliance with Division 23-11B-7 (Fire Code) and the National Fire Protection Association standards for marinas and boatyards.

23-4E-5090 Enforcement and Registration

- (A) The owner of a dock shall register the boat dock.
- (B) The owner shall affix a registration tag to the dock in a manner prescribed by the director.
- (C) A person must not remove a tag required to be placed on a dock required by this section.
- (D) The owner of a dock shall maintain the dock in a manner that complies with requirements of this division.
- (E) This division may be enforced in a manner described in Division 23-11B-9 (Property Maintenance Code).

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Division 23-4E-6: Specific to Use

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23-4E-6010 Purpose

This division establishes site plan, development, and operating requirements for certain land uses where allowed by Article 23-4D (Specific to Zones) and for uses that require special standards to ensure their compatibility with site features and existing uses.

23-4E-6020 Applicability

The standards of this division apply to all proposed development, in all zones, unless otherwise named in this division, and must be considered in combination with all other applicable provisions of Title 23. If there is a conflict between any standards, the provisions of this division control over Article 23-4D (Specific to Zones). If there is a conflict with any other requirements of this Title, the provision which is more restrictive or imposes higher standards or requirements shall control, so that in all cases the most restrictive provision shall apply.

23-4E-6030 Accessory Dwelling Unit - Residential

- (A) **Development Standards.** An accessory dwelling unit (ADU) in a residential zone must comply with the standards of the base zone, except where modified in Table (A) (Requirements for Accessory Dwelling Units).

Table 23-4E-6030(A) Requirements for Accessory Dwelling Units

	Requirement
Floor Area	Max. 550 sf on a second floor. Additional floor area on second floor may be allowed in compliance with Section 23-3E-5010 (Additional Affordable Housing Incentives).
Placement	(1) If detached, minimum 6' to the front, rear, or side of the primary structure or above a detached garage; may be connected to the primary structure with a covered walkway; (2) If attached, may be connected to the primary structure with a common wall or roof; or (3) Within the primary structure.
Other	May not be used as a short-term rental for more than 30 days in a calendar year if the unit was constructed after October 1, 2015.

23-4E-6040 Accessory Dwelling Unit - Non-Residential

- (A) **In Non-Residential Zones.** Except as otherwise provided in this section, one accessory dwelling unit is allowed if no more than 50 percent of the building area is used for the accessory dwelling unit. The occupant of the accessory dwelling unit is not required to be engaged in the principal use.
- (B) **Additional Requirements for Industrial Uses**
- (1) For a warehouse use, an accessory dwelling unit is allowed as an accessory use if
 - (a) The accessory dwelling unit is occupied by a person engaged in security, leasing, or management for the principal use; and
 - (b) No more than 25 percent of the building is used for the accessory dwelling unit.
 - (2) For an Industrial Flex use, an accessory dwelling unit is allowed as an accessory use if the dwelling unit occupies no more than 40 percent of the building.
- (C) **Additional Requirements for Civic and Public Assembly Use.** An accessory dwelling unit is allowed if:
- (a) The accessory dwelling unit is used for residential purposes; and
 - (b) One individual who resides in the accessory dwelling unit is employed on-site for security, maintenance, management, supervision, or personal service.

23-4E-6050 Accessory Uses

- (A) **Applicability.** Article 23-4D (Specific to Zones) establishes the zones where accessory uses are permitted
- (B) **Accessory Uses**
- (1) An accessory use is a use that:
- (a) It is incidental to and customarily associated with a principal use;
 - (b) Unless otherwise provided, is located on the same site as the principal use; and
 - (c) May include parking for the principal use.
- (C) Table (A) (Allowed Accessory Uses) establishes the accessory uses allowed based on the lot's primary use.

Table 23-4E-6050 (A) Allowed Accessory Uses

Accessory Uses to a Residential Use

Dock

Garage sales that comply with Subsection (F)(6)

Guest house

The keeping of dogs, cats, and similar small animals as household pets

Playhouses, patios, cabanas, porches, gazebos, and household storage buildings

Radio and television receiving antenna, and dish-type satellite receivers

Recreational activities and facilities

Religious study meetings

Residential convenience service

Residential tours that comply with Subsection (F)(5)

Solar collectors

Vehicle storage

Accessory Uses to a Commercial Use

Additional accessory uses in the Commercial Recreation (CR) Zone in Subsection (H)

Parking facility

Retail, restaurant and bar, or entertainment and recreation use or industrial use that is otherwise prohibited in the base zone subject to the requirements of Subsection (G)(2)

Accessory Uses to an Industrial Use

Commercial use otherwise prohibited in the base zone subject to the requirements of Subsection (I)(1)

Major utility

Parking facility

Accessory Uses to a Civic and Public Assembly Use

Cafeterias, dining halls, and similar

Columbarium subject to the requirements of Subsection (J)(5)

Table 23-4E-6050 (A) Allowed Accessory Uses (cont.)**Accessory Uses to a Civic and Public Assembly Use (cont.)**

Gift shops, newsstands, and similar

Parking facilities

Refreshment stands, convenience food or beverage sales

Accessory Uses to an Agricultural Use

Uses that are necessarily and customarily associated with the purpose and function of an agricultural use

Accessory to a Recreation Use

Bathroom facilities

Communications

Dock

Library, museum, or public art gallery¹

Meeting facility

Parking facility

Recreational vehicle park¹

Storage shed

Utilities, local

Notes¹Additional accessory uses in the PR zone allowed if part of an approved master plan

- (D) A use other than one described in this section is allowed as an accessory use if the director determines that the use is necessary, customary, appropriate, incidental, and subordinate to a principal use.
- (E) **Development Requirements.** A structure associate with the accessory use must comply with the development requirements of the base zone.
- (F) **Accessory Uses to a Principal Residential Use.** An accessory use to a principal residential use must comply with the requirements of this subsection.
- (1) A residential use includes a use listed in the residential and residential support services use categories in the land use tables in Article 23-4D (Specific to Zones).
 - (2) An accessory use may not generate more than 10 guest vehicles trips a day or 30 guest vehicle trips a week.
 - (3) The following uses are allowed as an accessory use to a principal residential use:
 - (a) Recreational activities and recreational facilities for use by residents;
 - (b) Religious study meetings;
 - (c) Playhouses, patios, cabanas, porches, gazebos, and household storage buildings;
 - (d) Radio and television receiving antenna and dish-type satellite receivers;
 - (e) Solar collectors;
 - (f) The keeping of dogs, cats, and similar small animals as household pets;

- (g) A home occupation that complies with Section 23-4E-6220 (Home Occupations);
 - (h) A garage sale that complies with Subsection (F)(6);
 - (i) A residential tour that complies with Subsection (F)(5);
 - (j) Vehicle storage that complies with Subsection (F)(4), below;
 - (k) A dock that complies with Subsection 23-4E-5060(E) (Docks as Accessory Uses);
 - (l) A guest house if:
 - (i) The principal use is a single-family residential use;
 - (ii) It is located on a lot with at least 10,000 square feet of area; and
 - (iii) Is occupied only by nonpaying guests of the permanent occupants of the principal use; and
 - (m) A residential convenience service if:
 - (i) The principal use is a multi-family use or a manufactured home park use;
 - (ii) It is operated as an integral part of the principal use;
 - (iii) Is not identifiable from outside the site; and
 - (iv) Is intended to be utilized solely by the occupants of the principal use.
- (4) **Vehicle storage.** This subsection establishes the requirements for vehicle storage as an accessory use.
- (a) Not more than one motor vehicle for each licensed driver residing on the premises may be stored on the premises.
 - (b) A private garage for the storage of maximum four motor vehicles is allowed.
 - (c) Except for an antique vehicle or recreational vehicle, a motor vehicle with a capacity of one ton or greater is prohibited.
 - (d) One commercial vehicle may be stored on the premises if:
 - (i) The vehicle is less than or equal to 14,000 gross vehicle weight rating (GVWR); and
 - (ii) The vehicle is owned or operated by the individual who resides at the premises.
 - (e) An inoperable motor vehicle may not be stored on an adjacent public right-of-way. A motor vehicle is inoperable if, for more than 72 hours, the vehicle:
 - (i) Does not have license plates or has license plates that have been expired for more than 90 days;
 - (ii) Does not have a current registration sticker or has a registration sticker that has been expired for more than 90 days; or
 - (iii) Cannot be started or legally operated in a public right-of-way.

- (f) Exceptions. The prohibition of Subsection (F)(4) does not apply to an antique or recreational vehicle stored at an owner's residence or a vehicle under repair for less than 60 days, if not more than one other vehicle is also under repair.
 - (g) Up to two vehicles that are either antique or recreational vehicles may be stored on the premises, if the storage area is not a health hazard and is either:
 - (i) In an enclosed building; or
 - (ii) Screened from public view with a solid wood fence or masonry wall at least six feet high.
- (5) **Residential Tours.** Participation on an annual or semi-annual tour is allowed as an accessory residential use subject to the requirements in this subsection and all other applicable regulations.
- (a) A tour is an organized event in which multiple residential properties are opened to members of the public for any lawful purpose, including:
 - (i) The appreciation and study of architecture; and
 - (ii) The production and incidental sale of artwork by an individual responsible for making or producing the artwork.
 - (b) To qualify as an accessory use, under this subsection, a residential tour that includes the production or sale of art may not take place on more than six days per calendar year, may not include a garage sale, may not include six guest artists in addition to the primary artist, and a participating residential property may not:
 - (i) Participate on a tour more than 12 days per calendar year;
 - (ii) Participate in more than three tours per calendar year;
 - (iii) Participate in a tour more than three days per week;
 - (c) A tour organizer shall provide the dates of the tour and the address of all participating properties to the Planning Director if the tour includes the production or sales of art
- (6) **Garage Sales.** This subsection establishes the requirements for garage sales as an accessory use.
- (a) A garage sale includes yard sales, carport sales, or similar types of sales involving:
 - (i) The sale of used or secondhand tangible property customarily found at a residence; and
 - (ii) The production and incidental sale of artwork by an individual responsible for making or producing the artwork.
 - (b) A garage sale must be conducted entirely on a property used as the seller's principal residence.
 - (c) A garage sale may not be held at the same property more than four days per calendar year or at a property participating in a residential tour described in Subsection (F)(5).
- (G) **Accessory Uses to a Principal Commercial Use.** An accessory use to a principal commercial use located a non-residential zone must comply with the requirements in this subsection.

- (1) In this subsection, a commercial use includes a use in any of the following categories:
 - (a) Artistic production, including, performing and visual arts;
 - (b) Automobile related;
 - (c) Entertainment and recreation;
 - (d) Innovation and technology;
 - (e) Office;
 - (f) Retail;
 - (g) Restaurant and bars; and
 - (h) Services.
- (2) A commercial or industrial use that is otherwise prohibited in the base zone is allowed as an accessory use if the use:
 - (a) Is operated primarily for the convenience of employees, clients, or customers of the principal use;
 - (b) Occupies less than 10 percent of the total floor area of the use;
 - (c) Is an integral part of the principal use; and
 - (d) For an industrial use, is not located in the Mixed-Use 2A (MU2A) Zone or within 100 feet of any residential zone.
- (3) A parking facility is allowed as an accessory use.
- (H) **Accessory Uses for a Commercial Recreation Zone.** An accessory use to a principal commercial use located in a Commercial Recreation Zone must comply with the requirements in this subsection. The requirements in this subsection supersede the requirements in Subsection (G) to the extent of conflict.
 - (1) The following are allowed as accessory uses in a Commercial Recreation (CR) Zone:
 - (a) Day care services;
 - (b) Food sales;
 - (c) General retail sales;
 - (d) Personal services;
 - (e) Public safety facilities; and
 - (f) Restaurant without alcohol sales.
 - (g) An accessory use described in this subsection, may not occupy more than 50 percent of the site area or the gross floor area of the structures on the site.
- (I) **Accessory Uses to a Principal Industrial Use.** An accessory use to a principal industrial use must comply with the requirements in this subsection.
 - (1) A retail, restaurant, office, business and financial/professional service, personal storage, or recreation use that is otherwise prohibited in the base zone is allowed as an accessory use if the use:
 - (a) Is operated primarily for the convenience of employees, clients, or customers of the principal use;

- (b) Occupies less than 40 percent of the total floor area of the use; or
 - (c) Is an integral part of the principal use.
- (2) A parking facility is allowed as an accessory use.
- (3) A major utility facility is allowed as an accessory use if the facility is operated as an integral part of the principal use, and the facility is not a public utility under the Texas Public Utility Regulatory Act.
- (J) **Accessory Uses to a Principal Civic and Public Assembly Use.** An accessory use to a principal civic and public assembly use includes:
 - (1) Refreshment stands and convenience food or beverage sales that serve a public assembly use;
 - (2) Cafeterias, dining halls, and similar food services that are primarily for the convenience of employees, residents, clients, patients, or visitors;
 - (3) Gift shops, newsstands, and similar commercial activities primarily for the convenience of employees, residents, clients, patients, or visitors;
 - (4) Parking facilities, except a facility located in a Residential House-Scale Zone may not exceed the minimum parking requirements; and
 - (5) A columbarium that:
 - (a) Is affiliated with a religious assembly use;
 - (b) Occupies no more than 10 percent of the site area or 10,000 square feet, whichever is less;
 - (c) Is oriented to the interior to the site; and
 - (d) Is not visible from public rights-of-way.
- (K) **Accessory Use to a Principal Agricultural Use.** For a principal agricultural use, accessory uses that are necessarily and customarily associated with the purpose and function of the agricultural use are allowed.
- (L) **Accessory Use to a Principal Recreation Use.** An accessory use for a principal recreation use includes:
 - (1) Bathroom facilities;
 - (2) Communications;
 - (3) Dock;
 - (4) Meeting facility;
 - (5) Parking facility
 - (6) Utilities, local;
 - (7) Storage shed;
 - (8) If part of an approved master plan:
 - (a) Recreational vehicle park;
 - (b) Library, museum, or public art gallery;

23-4E-6060 Adult Entertainment

(A) Purpose and Findings

- (1) The Legislature of the State of Texas has determined that sexually oriented businesses such as the businesses regulated in this section may be detrimental to the public health, safety and welfare of a community by contributing to the decline of neighborhoods and contributing to the growth of criminal activity.
- (2) The Legislature of the State of Texas grants authority to regulate sexually oriented businesses in V.T.C.A., Local Government Code ch. 243.
- (3) The City, as a home-rule city, has other authority under the Texas Constitution and Local Government Code to enforce ordinances to protect the health, safety and welfare of its citizens.
- (4) A number of studies have found that adult oriented businesses (a/k/a sexually oriented businesses) have an adverse secondary effect on property values, contribute to an increased crime rate in neighborhoods containing these businesses, cause an increase in sex-related crimes in such neighborhoods, and show a compounding of adverse secondary effects when two or more adult oriented businesses are located in close proximity.
 - (a) Survey of Texas Appraisers and Crime Related Secondary Effects, Texas City Attorney's Association, June 2008;
 - (b) A report on Zoning and other Methods of Regulating Adult Entertainment, Amarillo, Texas;
 - (c) Adult Entertainment an Analysis, Indianapolis, IN, February 1984;
 - (d) Study and Proposed Zoning Ordinance Amendment, Los Angeles, California, April 1978;
 - (e) Study of Adult entertainment Establishments in the City of Los Angeles, Los Angeles Department of City Planning, June 1977; and
 - (f) Report of the Attorney General's Working Group of the Regulation of Sexually Oriented Businesses; State of Minnesota, June 1989.
- (5) The city council also relies on these additional studies, reports or testimony in other communities including, but not limited to: Austin, Texas; Phoenix, Arizona; Minneapolis, Minnesota; St . Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Dallas, Texas; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Newport News, Virginia; Bellevue Washington; New York, New York; St. Croix County, Wisconsin; Kitsap County, Washington;
- (6) The city council finds and determines, based on these studies, testimony, and other available information, that the regulation of adult oriented businesses is necessary to control and limit these adverse secondary effects because:
 - (a) When the uses are concentrated, they affect the use and enjoyment of adjacent areas, and increase law enforcement problems .Special regulation of these uses is necessary to insure that these adverse secondary effects will not contribute to blighting or downgrading of surrounding neighborhoods, endanger public safety, or decrease the value of surrounding properties . The purpose of these standards is to promote the health, safety, and welfare of the city by preventing a

concentration or clustering of these uses in any one area of the city and to restrict their proximity to residential areas, schools, religious institutions, parks, and other public facilities

- (b) Adult-oriented businesses, as a category of commercial land uses, are associated with a wide variety of adverse secondary effects, including negative effects on surrounding properties, personal and property crimes, illicit drug use and trafficking, lewdness, prostitution, potential spread of disease, and sexual assault.
 - (c) Adult-oriented businesses must be separated from the sensitive land uses to minimize the effect of their secondary effects on these uses and must be separated from other adult-oriented businesses to ensure that these adverse secondary effects will not contribute to the blighting.
- (7) There is a substantial government interest in preventing each of the foregoing negative secondary effects. This substantial government interest exists independent of any comparative analysis between adult-oriented businesses and non-adult-oriented businesses.
- (8) The evidentiary record before the City establishes a reasonable basis to show that this standard has the purpose and effect of suppressing secondary effects related to adult-oriented businesses while leaving the quantity and accessibility of speech substantially intact. The City finds that a substantial interest and sufficient evidence exists to regulate adult-oriented businesses independent of any comparative rationale or comparative analysis involving the secondary effects of adult-oriented businesses. The City further finds that sufficient evidence exists in the record that the secondary effects associated with adult-oriented businesses will be reduced by these standards.
- (B) **Intent of Regulations.** It is not the intent of this Title to restrict access by adults to sexually oriented materials protected by the First Amendment, suppress any speech activities protected by the First Amendment, or deny access by the distributors and exhibitors of sexually-oriented entertainment to their market . The provisions propose content- neutral standards that address the negative secondary effects of adult retail uses and entertainment establishments and prevent the negative economic and aesthetic effects on neighboring properties and the community as a whole.
- (C) **Advertisements and Displays.** On-premises advertisements, displays, or other promotional materials for an adult entertainment business that emphasize specified sexual activities or specified anatomical areas must not be visible from public or semi-public places outside the business.
- (D) **Allowed.** Except as provided in Subsection (E).
- (1) An adult entertainment use other than an adult lounge:
 - (a) Is allowed in a MU4B or MU5A Zone; and
 - (b) Is allowed with a conditional use permit in the DC or CC Zone; and
 - (2) An adult lounge is allowed with a conditional use permit in a MU4B, MU5A, DC or CC Zone.
- (E) **Location Restrictions.** An adult entertainment use may not be located on a lot:

- (1) That is within 1,000 feet of a lot on which another adult entertainment use is located;
- (2) That is within 1,000 feet of a lot on which a school, church, public park or playground, licensed day-care center, museum, or library is located; or
- (3) Where 50 percent or more of the lots within a 1,000 foot radius are zoned or used for a residential use.

23-4E-6070 Alcohol Sales

- (A) **Alcohol Sales for Off- Site Consumption.** A business that sells alcohol (including beer, wine, or liquor) for off-site consumption must comply with applicable State requirements.
- (B) A use that includes the sale of alcohol shall comply with Section 4-9-4 (Minimum Distance from Certain Uses).

23-4E-6080 Alternative Financial Services

- (A) This section applies to an alternative financial services use.
- (B) **Location Restrictions.** An alternative financial service use may not be located on a site that is:
- (1) Within 1,000 feet of a site that contains another alternative financial services business use;
 - (2) Within 200 feet of a property in a base or overlay zone in which a residential use is allowed or in which a residential use is located;
 - (3) Within 500 feet of the rights-of-way of Interstate Highway 35, U.S. Highway 183, U.S. Highway 290, Texas State Highway Loop 360, Texas State Highway Loop 1, Texas State Highway 130, or Texas State Highway 45; or
 - (4) Within the Waterfront Overlay Zone, the University Neighborhood Overlay Zone, or the area bounded by Interstate Highway 35, Airport Boulevard, and Lady Bird Lake.
- (C) A use may be located only within a freestanding structure and may not be co-located in the same structure with other uses.

23-4E-6090 Bed and Breakfast

- (A) **Allowed.** A residential structure may be used as a bed and breakfast residential use only if it qualifies as a Group 1 or Group 2 bed and breakfast residential use structure.
- (1) **Group 1.** Except as provided in Subsection (A)(3), a Group 1 bed and breakfast residential use structure contains not more than:
- (a) Five rental units if the structure used as the bed and breakfast is more than 50 years old; or
 - (b) Three rental units if the building in which the bed and breakfast residential use is located is 50 years old or less.

- (2) **Group 2.** Except as provided in Subsection (A)(3), a Group 2 bed and breakfast residential use structure contains not more than:
 - (a) Ten rental units if the building used as the bed and breakfast more than 50 years old; or
 - (b) Five rental units if the building used as the bed and breakfast is 50 years old or less.
- (3) **Before October 1, 1994.** For an establishment that operated as a lodging house residential use on or before October 1, 1994:
 - (a) A Group 1 bed and breakfast residential use structure contains not more than five rental units; and
 - (b) A Group 2 bed and breakfast residential use structure contains not more than 10 rental units.
- (B) **General Requirements to Bed and Breakfast Structures**
 - (1) A bed and breakfast use must comply with requirements of Chapter 23-6 (Site Plan);
 - (2) Each separate structure used for a Group 2 bed and breakfast residential use facility must comply with this section and other applicable requirements of this Title.
 - (3) A person may not structurally alter the exterior of a Group 1 bed and breakfast structure in a manner that changes the existing residential character of the structure.
 - (4) A Group 1 bed and breakfast residential use must be located in the principal residential structure on the lot.
- (C) **License Required.** The owner must obtain a license to operate a bed and breakfast residential use structure. The license must be renewed annually.
- (D) **Ownership**
 - (1) A person may own only one bed and breakfast residential facility.
 - (2) The owner of a bed and breakfast residential use must:
 - (a) Reside in the bed and breakfast residential use structure or in another residential structure on the lot on which the structure is located; and
 - (b) Own the land on which the bed and breakfast residential structure is located.
 - (3) The owner may employ one or more persons who do not permanently reside on the lot on which the use is located to assist in the operation of the bed and breakfast residential use if the total hours worked by the employees does not cumulatively total more than 40 hours per week.
- (E) **Operational Standards**
 - (1) Except for breakfast service to an overnight guest, meal service is prohibited.
 - (2) An owner shall maintain a register of guests.
- (F) **Location Requirements.** A bed and breakfast residential use must be more than 1,000 feet from an existing bed and breakfast residential use. A city council-adopted neighborhood plan that allows spacing of 1,000 feet or less supersedes this subsection.
- (G) **Number of Rooms for Rent**

- (1) A bed and breakfast residential use structure may contain:
 - (a) One room for each 500 square feet of gross floor area within the structure if the owner resides in the structure; and
 - (b) One rental unit for each 700 square feet of gross floor area within the structure if the owner resides in another residential structure on the lot.
- (2) In this subsection, gross floor area does not include rooms occupied exclusively by the owner.

(H) Parking Requirements

- (1) Pervious pavers can be used as driveway and parking surface materials within the property boundaries.
- (2) No more than 25 percent of the parking surface may be constructed of gravel.
- (3) A guest parking space is not allowed in the front setback of a bed and breakfast residential use structure.

(I) Rental of a Bed and Breakfast Residential Use Facility for Gatherings

- (1) The use of a bed and breakfast residential use facility as a rented site for a gathering, including a wedding, requires a conditional use permit.
- (2) A conditional use permit may be approved only if:
 - (a) The bed and breakfast residential use structure is not located in a Residential House-Scale Zone; and
 - (b) A certificate of occupancy has been issued that authorizes the use of the site for a gathering.
- (3) The maximum number of attendees at a gathering held under this subsection equals four times the total of the number of parking spaces for rental units plus the number of spaces on the property that are not required for other uses on the property.
- (4) Amplified live outdoor music is prohibited at a gathering.
- (5) A gathering must end at 9:00 p.m. on Sunday through Thursday and at 10:30 p.m. on Friday and Saturday.
- (6) The Land Use Commission may not approve an increase of the maximum number of attendees, authorize amplified live outdoor music, or extend the hours of gathering through the conditional use permit process.
- (7) The Land Use Commission may reduce the hours for gatherings.

(J) Waivers

- (1) The owner of an establishment that operated as a lodging house residential use on or before October 1, 1994, may submit to the Planning Director an application for a waiver of the requirements prescribed in Subsections (B)(3), (B)(4), (D)(1), (D)(2), (D)(3), (F), (G), and (I).
- (2) The Planning Director shall give notice of a waiver application under Section 23-2C-5020 (Notice of Administrative Decision).

- (3) Except as provided in Subsection (K)(5), the Planning Director shall grant a waiver application if the director determines that the waiver will not harm the surrounding area.
- (4) An applicant may appeal Planning Director's decision to deny a waiver to the Land Use Commission.
- (5) If an interested party files a protest of a waiver application, Land Use Commission shall consider the application.
- (6) The Land Use Commission shall review a waiver application submitted under this section using the conditional use permit process described in Section 23-4B-1020 (Conditional Use Permit).

23-4E-6100 Commercial Blood Plasma Center

Conditional Use Permit Required. A commercial blood plasma center that requires a conditional use permit if the use is within:

- (1) One-half mile of another commercial blood plasma center; or
- (2) 540 feet of a lot used for:
 - (a) Any residential use;
 - (b) Any residential support service use;
 - (c) A public or private school;
 - (d) A church;
 - (e) A day care; or
 - (f) A public park or playground.

23-4E-6110 Communications

- (A) **Requirements Supersede.** For a communications use, the requirements in this section supersede by the base zone requirements.
- (B) **Base Zone Requirements.** Base zone requirements for lot size, lot width, floor area ratio, and building coverage do not apply.
- (C) **Site Development Standards.** A site used for communications must comply with the requirements of this subsection.
 - (1) **Side Setback.** The minimum width of a side setback is the lesser of:
 - (a) Five feet; or
 - (b) The width required by the site development standards for the base zone.
 - (2) **Front and Street Side Setbacks.** A structure must be set back at least 25 feet from a front or side street if the structure is located:
 - (a) In a Residential House-Scale Zone;
 - (b) Adjacent to or across a thoroughfare from a Residential House-Scale Zone; or

- (c) Adjacent to or across a thoroughfare from a property used for a residential or residential support service use.
- (3) **Landscaping.** At least 50 percent of the setback areas must be landscaped, and one tree at least six feet in initial height is required in the front setback. The following landscaping standards do not apply:
 - (a) Section 23-4E-4060 (Parking Area Tree Islands);
 - (b) Section 23-4E-4130 (Visual Screening);
 - (c) Section 23-4E-4140 (Submittal Requirements); and
 - (d) Section 23-4E-4150 (Final Inspection).
- (4) **Impervious Cover.** Impervious cover may not exceed the greater of the maximum percentage allowed by the applicable site development standards for the base zone:
 - (a) 95 percent for a site that is less than 2,500 square feet in size;
 - (b) 85 percent for a site that is at least 2,500 square feet but less than 3,600 square feet in size;
 - (c) 50 percent for a site that is at least 3,600 square feet but less than 5,000 square feet in size; or
 - (d) 45 percent for a site that is more than 5,000 square feet in size.
- (5) **Height.** A structure may not exceed 12 feet in height..
- (6) **Visual Obstruction.** A structure's location may not create a visual obstruction to traffic.

23-4E-6120 Community Agriculture

(A) Requirements for Community Agriculture Uses Greater Than One Acre in Size

- (1) A community agriculture use is allowed within the critical water quality zone if it meets the requirements in Section 23-3D-4040 (Critical Water Quality Zone Development) for sustainable urban agriculture or a community garden.
- (2) A site used for community agriculture must be at least one acre and may not exceed five acres.
- (3) The number of dwelling units allowed on a site may not exceed the number of dwelling units allowed under the base zone requirements but in any event may not exceed two units.
- (4) Animal raising that complies with this section is not allowed unless a dwelling unit on the site.
- (5) An accessory structure is allowed without a principal dwelling unit.
- (6) Raising livestock is prohibited.
- (7) A property that is not zoned residential is subject to requirements of this subsection:

- (a) The raising, slaughtering, processing, and composting of fowl, rabbits, and aquatic foods using an aquaponic system is allowed in accordance with Chapter 3-2 (Restrictions on Animals);
- (b) One animal (either fowl or rabbit) may be processed per 1/10th of an acre per week;
- (c) Composting, slaughtering, or processing of animals must occur at least 50 feet from the nearest residential structure other than the structure associated with the use.
- (d) Slaughtering and processing animals must take place out of public view; and
- (8) A property zoned residential is subject to the requirements of this subsection:
 - (a) The raising of fowl, rabbits, and aquatic foods using an aquaponic system is allowed in accordance with Chapter 3-2 (Restrictions on Animals).
 - (b) Slaughtering and processing of aquatics foods is allowed.
 - (c) Slaughtering or processing of fowl and rabbits is prohibited.
 - (d) Composting of animal parts is prohibited in residential zones.
- (9) Water conservation practices must be followed, at minimum, in accordance with Chapter 6-4 (Water Conservation) of the City Code.
- (10) The use of synthetic inputs is prohibited. An Integrated Pest Management Plan, developed in accordance with the Environmental Criteria Manual and approved by the Watershed Director, must be followed.
- (11) Agricultural and value-added agricultural products raised by the farmer or produced within the State of Texas may be sold from the site or distributed off-site to buyers. Agricultural products and value-added agricultural products produced off-site by someone other than the farmer cannot exceed 20 percent of the retail space by area.
- (12) The maximum number of full-time, non-seasonal employees is two for each full acre, plus two for the remaining portion of an acre, if any. This does not include the property owner.
- (13) The property owner must maintain residential character of the lot and dwelling.
- (14) A sign is allowed in accordance with Chapter 23-8 (Signage).

(B) Requirements for Community Agriculture Uses Less Than One Acre in Size

- (1) A community agriculture use is allowed within the critical water quality zone if it meets the requirements in Section 23-3D-4040 (Critical Water Quality Zone Development) for sustainable urban agriculture or a community garden.
- (2) A site may not exceed one acre.
- (3) The number of dwellings units on a site may not exceed the number of dwelling units allowed under the base zone requirements.
- (4) The raising of fowl, rabbits, and aquatic foods using aquaponic systems is allowed in accordance with Chapter 3-2 (Restrictions on Animals).
- (5) Animals may not be slaughtered, processed, or composted on-site.

- (6) An Integrated Pest Management Plan, developed in accordance with the Environmental Criteria Manual and approved by the Watershed Director, must be followed. Synthetic fertilizers and pesticides may not be used.
- (7) Water conservation practices must be followed in accordance with Chapter 6-4 (Water Conservation).
- (8) Agricultural products produced on-site may be sold from the site or distributed off-site to buyers. On-site farm stands are not allowed. Sales must be conducted out of sight of the general public on the property. No more than three customer-related trips per day are allowed.
- (9) The maximum number of full-time employees is one. This does not include the property owner.
- (10) A person shall maintain the residential character of the lot and dwelling.
- (11) A sign is allowed in compliance with Chapter 23-8 (Signage).

23-4E-6130 Community Events

- (A) **Location Restrictions.** A community events use is allowed only on:
 - (1) City-owned land located within the area bounded on the north by the southern right-of-way of Riverside Drive, on the east by the western right-of-way of South First Street, on the south by the northern right-of-way of Barton Springs Road, and on the west by a line 1,500 feet west of and parallel to the western right-of-way of South First Street; or
 - (2) City-owned land located with the area bounded on the north by a line 650 feet north of and parallel to the northern right-of-way of Toomey Road, on the east by the western right-of-way of South Lamar Boulevard, on the south by northern right-of-way of Toomey Road, and on the west by a line 700 feet west of and parallel to the western right-of-way of South Lamar Boulevard.
- (B) **Council Approval.** Council approval is required for a site plan for a community events use. An approved of a site plan:
 - (1) Establishes the site development requirements; and

- (2) Waives requirements that are not consistent with the site plan, if any.
- (C) **Public Hearing.** A public hearing is required for each site plan considered under this section. The Planning Director shall give notice of the public hearing in accordance with Section 23-2C-4040 (Type 2 Public Hearing Notice).

23-4E-6140 Convention Center

- (A) **Council Approval Required.**
 - (1) Council approval of a conditional use permit is required for a convention center.
 - (2) An approved conditional use permit establishes site development standards and waives standards that are inconsistent with the conditional use permit, if any.
- (B) **Hearing.** A public hearing is required for each conditional use permit considered under this section. Notice for the public hearing shall comply with the requirements established in Section 23-2C-4020 (Type 1 Public Hearing Notice).

23-4E-6150 Cottage Court

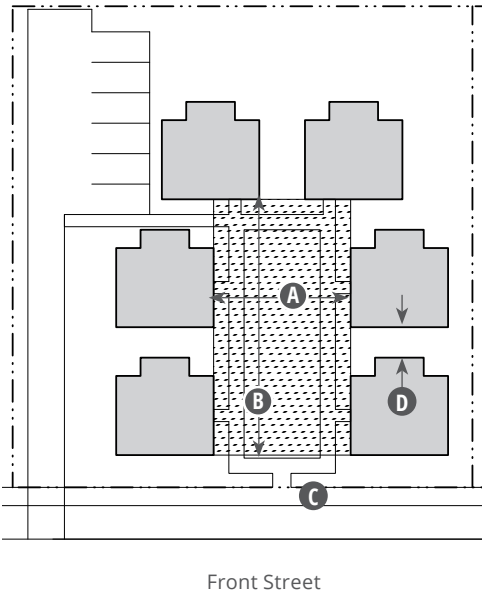
Development Requirements. A cottage court shall comply with the requirements of the base zone and the requirements established in Table (A) (Cottage Court Requirements).

23-4E-6160 Drive Through

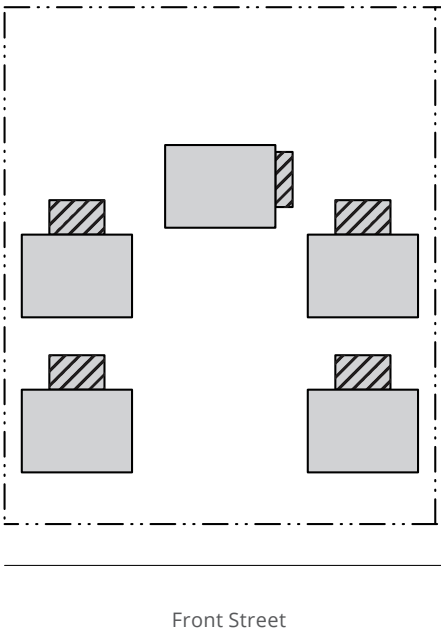
- (A) **Design Objectives.** A drive-through is allowed if the Planning Director determines that the design and operation will not create congestion, disrupt the pedestrian realm, or result in excessive pavement, litter, and noise.
- (B) **Limitation on Location.** A drive-through must be located along the building's side or rear facade, and away from a primary street frontage.
- (C) **On-site Circulation.** An internal circulation and traffic control plan must comply with the requirements of this section:
 - (1) **Drive-through Lane Design**

- (a) The entrance and exit of a drive-through lane must be at least 50 feet from an intersection of public rights-of-way when measured at the closest intersecting curbs.
- (b) The drive-through lane must be at least 10-feet wide with a minimum 10-foot interior radius at curves.

Parking Access from Alley



Parking Access from Front Street



Key for Diagrams

--- ROW / Lot Line

□ Open Space

- (c) A drive-through lane may not be located between a property line and the front of the building except when not feasible. If the drive-through lane must be located

Table 23-4E-6150(A) Cottage Court Requirements		
Open Space		
Width	20' clear, min.	(A)
Depth	75' clear, min.	(B)
Area	1,000 sf min., total; 200 sf/unit min.	
At least two sides of the open space must be defined by building facades.		
Open space requirements cannot be met with open space that is provided in a required front or side-street setback.		
The common court must not be used for vehicular access or parking.		
Private rear yards are not preferred.		

Table 23-4E-6150(A) Cottage Court Requirements (cont.)	
Pedestrian Access	
The main entrance to the court must be from the front street.	(C)
The units must front the common court or the street.	
On a corner lot, the units adjacent to the side street must front both the court and the street.	
A pedestrian connections must link each building to the public right-of-way, court, and parking area.	
Miscellaneous	
Buildings on the lot must be separated by a minimum of 6 feet.	(D)
Driveway and parking areas must be screened from the common court by buildings, fence, or wall.	
Parking must be clustered and may not be provided adjacent to or attached to an individual unit.	

between the property line and the front of the building it must be screened by a wall designed to match the building materials of the primary building(s) on the site.

- (2) **Drive-through Stacking Area.** The stacking area is an area provided for vehicles waiting for drive-through service that is physically separated from other on-site traffic circulation. A stacking area must:
 - (a) Be marked;
 - (b) Accommodate a minimum of five cars for each drive-up or drive-through window in addition to the vehicle receiving service;
 - (c) Be located at and before the service window;
 - (d) Be separated from other traffic using concrete curbing or paint striping on at least one side of the lane; and
 - (e) Not be adjacent and parallel to thoroughfares or public rights-of-way.
- (D) **Parking.** Parking for a drive-through facility must comply with Division 23-4E-3 (Parking and Loading).
- (E) **Pedestrian Access**
 - (a) A business that has a drive-through facility but does not have walk-in service must provide safe and convenient access for pedestrians to the drive-through facility.
 - (b) An on-site pedestrian walkway must not intersect a drive-through aisle.
- (F) **Visual Buffer.** A drive-through aisle must be screened from the sidewalk or thoroughfare with a landscape buffer, or walls and berms.

23-4E-6170 Duplex

#48

- (A) A duplex shall comply with the requirements of the base zone and the requirements established in this section.
- (B) A duplex may provide tandem parking that does not exceed one space behind the required parking space.
- (C) A duplex must comply with the requirements in this subsection.
 - (1) The two units must be attached; and
 - (2) At least one of the two units must have a front entry that faces the front thoroughfare except each unit located on a corner lot must each have a front entry that faces a separate thoroughfare.

23-4E-6180 Gas Station

- (A) **Screening.** A gas station must be screened from the thoroughfare by a building or a landscape buffer that includes shade trees and complies Division 23-4E-4 (Landscaping).
- (B) **Fuel dispensers.** A gas station may not exceed 16 fuel dispensers.

23-4E-6170: Duplex

PC Motion #48

In 23-4E-6170(C), change the following: "A duplex must comply with the requirements in this subsection.

- (1) The two units must be attached or no greater than 12 feet apart; and
- (2) At least one of the two units must have a front entry that faces the front thoroughfare except each unit located on a corner lot must each have a front entry that faces a separate thoroughfare."

In 23-13A-2, change the following: "DUPLEX. Two dwelling units on a single lot that are either attached or separated by no more than 12 feet A residential building containing two attached dwelling units on a single lot."

- (C) **Vehicle Queue Lanes.** A gas station may not exceed eight vehicle queue lanes.
- (D) **Location.** In Commercial Center (CC), Downtown Core (DC), or Urban Center (UC) Zones or in Main Street Zones, gas station must be located behind the primary building.

23-4E-6190 General Retail with Outside Storage

- (A) A general retail use with outside storage shall comply with the requirements in this section.
- (B) A use subject to this section shall comply with the requirements of the base zone and the requirements established in this section.
- (C) If herbicides, pesticides, fertilizers, or other equipment are stored on the site, the storage area must be shown on the site plan.
- (D) This subsection applies to products the Environmental Protection Agency requires to be labeled “combustible”, “corrosive”, “danger”, “flammable”, “highly flammable”, “poison”, or “warning”.
 - (1) The product must be stored or displayed in an enclosed building.
 - (2) If the site exceeds one acre, the products must be separated from property used or zoned as residential by at least 75 feet plus 20 feet for each acre of site area over one acre.
 - (3) The total storage and display area may not:
 - (a) Exceed 100 square feet for each acre, or portion of an acre, of site area; and
 - (b) Exceed 1,000 square feet.
- (E) A bulk storage area for soil, compost, or a similar product outside of an enclosed building must:
 - (i) Not exceed 10 percent of the site area;
 - (ii) Be located at least 25 feet from property used or zoned for a residential use;
 - (iii) Be screened from view from an adjacent property used or zoned for a residential use; and
 - (iv) Not cause noxious odors that are detectable from an adjacent property used or zoned for a residential use.

23-4E-6200 Home Occupations

- (A) A home occupation is a commercial use that is accessory to a residential use and shall comply with the requirements of this section.
- (B) A home occupation shall be conducted entirely within the dwelling unit or an accessory structure.

- (C) Participation in a home occupation is limited to occupants of the dwelling unit, except that one person who is not an occupant may participate in a medical, professional, administrative, or business office if off-street parking is provided for that person.
- (D) The owner or occupant shall maintain the residential character of the lot and dwelling. Unless a modification is required to comply with accessibility requirements, a home occupation that requires a structural alteration of the dwelling to comply with a nonresidential construction code is prohibited.
- (E) A home occupation may not generate more than four vehicle trips each day of customer-related vehicular traffic.
- (F) The sale of merchandise directly to a customer on the premises is prohibited.
- (G) Equipment or materials associated with the home occupation must not be visible from locations off the premises.
- (H) A home occupation must not produce dust, glare, heat, noise, vibration, smoke, odor, fumes, electrical interference, or waste run-off outside the dwelling unit or accessory structure.
- (I) Parking a commercial vehicle on a thoroughfare adjacent to a residentially zoned property is prohibited. A commercial vehicle associated with the home occupation may be stored on the premises of a residentially zoned property if it complies with Section 23-4E-6050(F)(4)(d) and it is screened from the street or housed in an accessory structure that conforms with residential standards
- (J) A sign on the premises that is related to the home occupation must comply with Chapter 23-8 (Signage).
- (K) A use that complies with this section is allowed as a home occupation, except the following uses are prohibited:
 - (1) An activity requiring an H-occupancy in compliance with Division 23-11B-1 (Building Code);
 - (2) Adult-oriented businesses;
 - (3) Animal breeding;
 - (4) Animal service or boarding;
 - (5) Automobile repair, sales, or rental;
 - (6) Bar/nightclub (any kind);
 - (7) A business that involves the repair of any type of internal combustion engine, including equipment repair services;
 - (8) Commercial services, no outside storage;
 - (9) Commercial services, with incidental outside storage;
 - (10) Heavy equipment sales, rental, and storage;
 - (11) Hospital;

- (12) Medical services;
- (13) Personal services, restricted;
- (14) Recycling centers;
- (15) Recreational and sports vehicle sales, rental, and storage;
- (16) Restaurants (any kind); or
- (17) Salvage/junk yard.

23-4E-6210 Live/Work

- (A) **Purpose.** This section establishes the requirements to develop live/work units and to reuse existing residential buildings to accommodate live/work opportunities.
- (B) **Types of Live/Work in Residential Zones.** A live/work unit in a residential zone must function predominantly as living space with limited work facilities. This section does not apply to mixed-use developments.
- (C) **Maximum Floor Area.** A live/work use may not exceed 5,000 square feet of gross floor area.
- (D) **Allowed Uses.** The uses allowed in a non-residential component of a live/work development are the uses allowed in the zone in which the building is located.
- (E) **Prohibited Uses.** A live/work unit may not be used for following activities:
 - (1) Adult-oriented businesses;
 - (2) Vehicle maintenance, repair, detailing, or painting;
 - (3) Storage of flammable liquids or hazardous materials beyond that normally associated with a residential use;
 - (4) Welding, machining, or any open flame work;
 - (5) Medical marijuana dispensary;
 - (6) Outdoor storage of materials;
 - (7) The use of welding equipment, fiberglass, or epoxy; and
 - (8) Any other activity or use the Planning Director determines is not compatible with residential activities; and
 - (9) An activity the Planning Director determines has the possibility of affecting the health or safety of live/work unit residents because of the potential for the use to create dust, glare, heat, noise, vibration, smoke, odor, noxious gases, traffic, or other effects, or would be hazardous because of materials, processes, products, or wastes.
- (F) **Residential Density.** The number of live/work units on a site must comply with the density allowed in the base zone.
- (G) **Occupancy Requirement.** The residential space within a live/work unit must be occupied by at least one individual who is employed in the business that is conducted within the non-residential component.
- (H) **Design Requirements**

- (1) **Floor Area.** The floor area of the residential space must be at least 50 percent of the total floor area. Floor area other than that reserved for work space must be reserved and regularly used for living space.
 - (2) **Access.** Each live/work unit must be accessible from a public thoroughfare or common access area, corridor, or hall. The access to each unit must be separate from other live/work units or other uses within the building.
 - (3) **Facilities for Non-Residential Activities.** A live/work unit used for commercial or light industrial activities must be constructed in the same manner as a facility used exclusively for the same commercial or light industrial activities.
 - (4) **Integration of Living and Working Space.** An area within a live/work unit that is designated as residential space is an integral part of the live/work unit. The residential space of shall be accessible to the non-residential space using an interior connection. Exterior access shall comply with Division 23-11B-1 (Building Code).
 - (5) **Mixed Occupancy Building.** A building may contain live/work unites and other non-residential occupancies. The occupancies, other than live/work, must comply with all applicable requirements for those uses and proper occupancy separations shall be provided between the live/work units and other occupancies, as determined by the building official.
 - (6) **Signage.** All signage for live/work units must comply with Chapter 23-8 (Signage).
 - (7) **Parking.** Parking is required and must comply with Division 23-4E-3 (Parking and Loading). The Development Services Director may modify parking requirements for the reuse of existing residential structures with limited parking.
 - (8) **Landscaping.** Landscaping is required and must comply with Division 23-4E-4 (Landscape).
- (I) **Operating Requirements**
- (1) **Sale or Rental of Portions of Unit.** No portion of a live/work unit may be rented or sold separately as a commercial or industrial space to a person not living in the premises or as a residential space to a person not working in the same unit.
 - (2) **On-premises Sales.** Goods produced within the live/work unit may be sold on-premises if the sales activity is incidental to the primary production work within the unit. Gallery showings and sales of goods produced within the live/work unit are permitted as part of a Residential Tour.
 - (3) **Nonresident Employees.** Except as provided in Subsection (I)(4), participation in the business conducted within the live/work unit is limited to two individuals who do not reside in the live/work unit.
 - (4) If the owner obtains a conditional use permit, three or more persons who do not reside in the live/work unit may participate in the business conducted within the live/work unit. A conditional use permit to increase the number of persons who may participate in the business may not be approved unless the Land Use Commission makes an additional finding that the employment will not adversely affect parking and traffic conditions in the immediate vicinity of the unit.

- (J) **Changes in Use.** A live/work unit may be changed to exclusively a residential or commercial use in any building if the residential or commercial use is allowed in the zone in which the building is located.
- (K) **Findings for a Conditional Use Permit.** Before the Land Use Commission can approve a conditional use permit for a live/work unit, the Development Services Director must find that:
 - (1) The live/work units will not conflict or interfere with residential, commercial, or industrial uses in the area where the development is proposed;
 - (2) The building containing the live/work units and each live/work unit within the building is designed to ensure that the units will function predominantly as residential with incidental work spaces; and
 - (3) Any changes proposed to the exterior appearance of an existing building is compatible with adjacent residential, commercial, or industrial uses.

23-4E-6220 Manufacturing and Storage

- (A) **Manufacturing and Storage - Light.** Light manufacturing and storage in Mixed-Use, Main Street, or Regional Center Zones must comply with the requirements of this subsection:
 - (1) **Lighting**
 - (a) An exterior light source:
 - (i) May not be directly visible to a residential use; and
 - (ii) Shall be hooded or shielded.
 - (b) Lighting used to illuminate an off-street parking area, sign or other structure shall be designed to deflect light away from any adjoining property or from public streets.
 - (2) **Noise and Vibration**
 - (a) The noise level of mechanical equipment or other activities associated with light manufacturing operations must not exceed 70 "A"-weighted decibels when measured at the property line of a residential use or is across a public right right-of-way from the site.
 - (b) Vibration from mechanical equipment or other activities associated with light manufacturing operations causes a vibration at a residence that abuts or is across a public right-of-way from the site is prohibited.
 - (3) **Odor.** The activities associated with the use may not cause noxious or objectionable odors that are detectable from adjacent property used or zoned for a residential use.
 - (4) **Outdoor Storage.** If materials are stored outdoors, the materials must be screened from ground-level view from a public right-of-way or a residential use. The screen must be an opaque fence. The materials may not be piled or stacked higher than the opaque fence.
 - (5) **Loading Docks.** Where the site abuts a residential use, a service door opening or loading dock may not be oriented toward the residential use.

(B) Requirements for a Brewery/Winery/Distillery

- (1) **Allowed.** The sale of beer, ale, wine, or distilled liquor produced on-site for on-site consumption:
 - (a) Is an allowed use, if the use is at least 540 feet from any single-family residential use, as measured from lot line to lot line;
 - (b) Is a conditional use, if the use is less than 540 feet from any Residential House Scale Zone, as measured from lot line to lot line; and
 - (c) Except as provided in Subsection (B)(2), must not exceed the lesser of 33 percent or 5,000 square feet of the total floor area of the principal developed use.
- (2) **On-site Consumption Area**
 - (a) During a tour, on-site consumption is allowed in an area that exceeds the lesser of 33 percent or 5,000 square feet of the total floor area of the principal developed use.
 - (b) If the use is located in Airport Overlay Zones AO-1, AO-2, or AO-3, on-site consumption is allowed in an area that exceeds the lesser of 33 percent or 5,000 square feet of the total floor area of the principal developed use.
- (3) **Increased Square Footage.** During the conditional use permit approval process, the Planning Commission or city council may increase the square footage allowed under Subsection (B)(1)(c).

23-4E-6230 Micro-Brewery/Micro-Distillery/Winery

- (1) **Allowed.** The sale of beer, ale, wine, or distilled liquor produced on-site for on-site consumption:
 - (a) Is an allowed use, if the use is at least 540 feet from any single-family residential use, as measured from lot line to lot line;
 - (b) Is a conditional use, if the use is less than 540 feet from any Residential House Scale Zone, as measured from lot line to lot line; and
 - (c) Except as provided in Subsection (B)(2), must not exceed the lesser of 33 percent or 5,000 square feet of the total floor area of the principal developed use.
- (2) **On-site Consumption Area**
 - (a) During a tour, on-site consumption is allowed in an area that exceeds the lesser of 33 percent or 5,000 square feet of the total floor area of the principal developed use.

- (b) If the use is located in Airport Overlay Zones AO-1, AO-2, or AO-3, on-site consumption is allowed in an area that exceeds the lesser of 33 percent or 5,000 square feet of the total floor area of the principal developed use.
- (3) Increased Square Footage. During the conditional use permit approval process, the Planning Commission or city council may increase the square footage allowed under Subsection (B)(1)(c).

23-4E-6240 Mobile Food Sales

- (A) **Applicability.** Except as provided in Subsection (B), this section applies to all mobile food establishments.
- (B) **Permit Required.** Mobile food sales use operating in the public right-of-way must also comply with standards in Title 14 (Use of Streets and Public Property).
- (C) **Permit Not Required.** A mobile food establishment located on private property for three hours or less between the hours of 6:00 a.m. and 10:00 p.m. is not subject this section.
- (D) The permit holder is the person to whom the health authority issues a permit for a mobile food establishment permit required by Chapter 10-3 (Food and Food Handlers).
- (E) A site plan, site plan exemption, or temporary use permit is not required for the operation of a mobile food establishment.
- (F) **Where Prohibited.** A mobile food establishment is not allowed:
 - (1) On private property, except as provided in this section;
 - (2) Within 50 feet of a lot with a building that contains both a residential and commercial use; or
 - (3) Within 20 feet of any restaurant use.
- (G) **Operational Requirements.** A mobile food establishment:
 - (1) May operate if the operator obtains a permit required by Chapter 10-3 (Food and Food Handlers) from the health authority;
 - (2) May not operate between the hours of 3:00 a.m. and 6:00 a.m.; and
 - (3) May not provide drive-through service.
- (H) A mobile food establishment located on the same site as a restaurant and serves food provided by the restaurant may operate between the hours of 6:00 a.m. and 10:00 p.m. if the mobile food establishment is located 300 feet or less from property in a Residential House-Scale Zone.
- (I) **Noise.** Noise from mechanical equipment or sound equipment associated with a mobile food establishment must not exceed 70 "A"-weighted decibels when measured at the property line that is across the street from or abutting a residential use.
- (J) **Lighting.** An exterior light source:
 - (1) May not be directly visible to a residential use; and

- (2) Must be hooded or shielded.
- (K) **Signs.** A mobile food establishment is limited to signs attached to the exterior of the mobile food establishment. The signs:
 - (1) Must be secure and mounted flat against the mobile food establishment; and
 - (2) Must not project more than six inches from the exterior of the mobile food establishment.
- (L) **Debris and Litter.** The permit holder shall:
 - (1) Provide a landfill trash container for use by customers during business hours; and
 - (2) Keep the area around the mobile food establishment clear of litter and debris at all times.
- (M) **Utilities**
 - (1) A permanent water or wastewater connection is prohibited.
 - (2) Electrical service may be provided only by:
 - (a) Temporary service or other connection provided by an electric utility; or
 - (b) An onboard generator.
- (N) The permit holder shall comply with the this section. A violation of this section is a Class C misdemeanor.
- (O) **Landfill Trash and Diversion of Recyclable and Organic Material.** If applicable, a permit holder shall comply with Article 5 (Universal Recycling) of Chapter 15-6 (Solid Waste Services).

23-4E-6250 Mobile Retail Sales

- (A) **Applicability.** Except as provided in Subsection (B), a mobile retail establishment is subject to this section. A mobile retail establishment does not include a mobile food establishment.
- (B) A mobile retail establishment that is located on private property for three hours or less between the hours of 6:00 a.m. and 11:00 p.m. is not subject to this section.
- (C) **Permit Not Required.** A site plan, site plan exemption, or temporary use permit is not required for the a mobile retail sales use.
- (D) **Time Limit.** A mobile retail establishment may not remain at the same location for more than 180 consecutive days.
- (E) **Application**
 - (1) A person may not operate a mobile retail establishment unless the Planning Director approves the establishment.
 - (2) The Planning Director shall approve the establishment if the operator provides an application that includes:
 - (a) The name and address of the mobile retail establishment owner;
 - (b) Proof of motor vehicle or trailer registration;

- (c) A description of the items that the mobile retail establishment sells;
 - (d) Proof of sales tax;
 - (e) Proof of Texas Department of Licensing and Regulation license(s), if applicable for personal services use;
 - (f) An itinerary of the locations where sales occur;
 - (g) If at one location more than two hours, a written agreement from a business within 150 feet of the location to allow employees of the mobile retail establishment to use flushable restrooms or other facilities approved by the health authority during hours of operation;
 - (h) A fee, as established by separate ordinance; and
 - (i) Any other information reasonably required by the Planning Director to enforce this section.
- (F) **Items and Services Sold.** An operator may only sell non-food retail items or services. Mobile retail establishments may only sell items or services allowed under a general retail, animal service (Level 1), indoor recreation and personal service use. All sales items and supplies must be stored within the mobile unit.
- (G) **Location Requirements.** A mobile retail establishment must comply with the requirements of this subsection:
- (1) Unless located in a Commercial Center (CC) or Downtown Core (DC) Zone, a mobile retail establishment may not be located less than 50 feet from a lot with a building that contains both a residential and commercial use.
 - (2) A mobile retail establishment may not be located less than 50 feet from a Residential House-Scale Zone.
 - (3) A mobile retail establishment may not be located less than 20 feet from a general retail, animal service (Level 1), or personal service use.
 - (4) A mobile retail establishment may not be located within the right-of-way unless the mobile retail establishment obtains and possesses the permission required under Sections 14-8-2 (Permit Required; Waiver of Deadlines) and 14-9-21 (Street Vendor License Authorized) .
 - (5) A mobile retail establishment may not occupy or impede required parking for another use.
- (H) **Operational Requirements**
- (1) A person shall not operate a mobile retail establishment between the hours of 11:00 p.m. and 6:00 a.m.
 - (2) A mobile retail establishment may not provide drive-through service.
 - (3) A person shall not place sales items, equipment, or supplies that are part of its operations outside of the allowed unit and shall conduct all of its operational activities within the mobile retail establishment.
- (I) **Lighting.** An exterior light source:

- (1) Must not be directly visible to a residential use; and
 - (2) Must be hooded or shielded.
- (J) **Noise.** Noise from mechanical equipment or sound equipment associated with the mobile retail establishment must not exceed 70 "A"-weighted decibels when measured at the property line that is across the street from or abutting a residential use.
- (K) **Signs.** A mobile retail establishment is limited to signs attached to the exterior of the mobile retail establishment. The signs:
- (1) Must be secured and mounted flat against the mobile retail establishment;
 - (2) May not project more than six inches from the exterior of the mobile retail establishment;
 - (3) May not use a flashing light source; and
 - (4) May not use an LED message board.
- (L) **Debris and Litter.** The operator of the mobile retail establishment shall:
- (1) Provide landfill trash containers for use by customers during business hours; and
 - (2) Keep the area around the mobile retail establishment clear of litter and debris at all times.
- (M) A permanent water or wastewater connection is prohibited.
- (N) Electrical service must be provided only:
- (1) By a temporary service or other connection provided by an electric utility; or
 - (2) By an onboard generator.
- (O) If applicable, an operator shall comply with Article 5 (Universal Recycling) of Chapter 15-6 (Solid Waste Services).
- (P) An operator shall demonstrate that the vehicle or trailer is readily movable if requested by the Planning Director.
- (Q) An application approved by the Planning Director may be revoked under this subsection.
- (1) The Planning Director may revoke an approved application under Subsection (E) if an operator provided false information on an application or commits repeated violations of applicable law.
 - (2) In determining whether to revoke an approved application, the Planning Director shall consider the frequency of any repeated violations, whether a violation was committed intentionally or knowingly, and any other information relevant to the degree to which an operator has endangered the public health, safety, or welfare.
 - (3) An operator may appeal the Planning Director's decision to revoke an approved application to the Planning Commission.
 - (4) An operator must file the appeal no later than the 20th day following the date of the Planning Director's decision. The appeal must be on a form approved by the Planning Director.
 - (5) After notice and public hearing, the Planning Commission shall either uphold or overturn the decision of the Planning Director. In making its decision, the Planning Commission shall consider the criteria contained within this subsection. The Planning Commission's decision shall be final on this matter.

- (R) An operator shall comply with this section. A violation of this section is a Class C misdemeanor.

23-4E-6260 Multi-Family

(A) Driveways

- (1) A driveway may not exceed 50 percent of the lot width if it only serves one unit and is located in the front setback of the lot.
- (2) A driveway that serves more than one unit may not:
 - (a) Exceed 50 percent of the combined area of the required front setbacks of the units served by the driveway; and
 - (b) May not have more than two points of vehicular access to a public thoroughfare.

(B) Required Open Space

- (1) **Ten or More Dwelling Units.** A multi-family use with 10 or more dwelling units in a building constructed after the effective date of this ordinance must comply with the requirements in Section 23-4C-1030 (Common Open Space) unless:
 - (a) The development is located in:
 - (i) The University Neighborhood Overlay and the applicant elects to comply with Section 23-4D-9130 (University Neighborhood Overlay Zone);
 - (ii) The Commercial Center (CC) Zone; or
 - (iii) The Downtown Core (DC) Zone; or
 - (b) The development is certified under a local, state, or federal affordable housing program and located within ¼ mile safe pedestrian travel distance of an existing and developed public park or multi-use trail, measured from the boundary of the site to the nearest public entrance of the park or multi-use trail.
- (2) In evaluating safe pedestrian travel distances under Subsection (B)(1)(b), consideration shall be given to factors affecting the suitability of the area for pedestrian travel, including physical or topographic barriers, traffic volumes, pedestrian crosswalks, and accessible routes compliant with the Americans with Disabilities Act.

(3) Nine or Fewer Dwelling Units

- (a) Except as provided in Subsection (B)(3)(b), a multi-family use with 9 units or fewer must comply with the requirements of Table (A) (Additional Requirements for Multi-Family).
- (b) A development meets the requirements in Subsection (B)(1)(a) is not subject to this subsection
- (c) Ground level personal open space, upper story balcony, or roof deck counts as personal space.
- (d) Open space provided in a required front, side, or side street setback does not satisfy the requirements of this subsection.

Table 23-4E-6250 (A) Additional Requirements for Multi-Family

Open Space Type	Area (min.)
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Personal	5% of gross site area		
Area Requirements	Width (min.)	Depth (min.)	Area (min.)
Ground Level	10'	10'	100 sf
Above Ground	5'	5'	50 sf

23-4E-6270 Performance Venue/Theater

(A) **Applicability.** This section applies to:

- (1) An indoor performance venue/theater use; and
- (2) An outdoor performance venue/theater use.

(B) **Alcohol Sales as an Accessory Use**

- (1) The incidental sale of alcohol for onsite consumption related to the primary use is allowed and must comply with all applicable state and local regulations.
- (2) The sale of alcohol is not incidental if 50 percent or more of the gross revenue is from alcohol sales.

23-4E-6280 Recreation Indoor/Outdoor

(A) **Applicability.** This section applies to:

- (1) An indoor recreation use; and
- (2) An outdoor recreation use.

(B) **Alcohol Sales as an Accessory Use**

- (1) The incidental sale of alcohol for onsite consumption related to the primary use is allowed and shall comply with all applicable state and local regulations.
- (2) The sale of alcohol is not incidental if 50 percent or more of the gross income is from alcohol sales.

(C) **Additional Accessory Uses.** The following uses are accessory to an outdoor, formal recreation use:

- (1) A single-family, duplex, or accessory dwelling unit that is occupied by at least one individual who is employed on-site for security, maintenance, management, supervision, or personal service;
- (2) A refreshment stand or convenience food or beverage sales that serve a public assembly use;
- (3) Restrooms that serve the use;
- (4) A gift shop that serves the use; and
- (5) Maintenance buildings related only to the recreation use on the property.

23-4E-6290 Recreational Vehicle Parks

- (A) **Applicability.** This section applies to a site used for a recreational vehicle park.
- (B) **Applicability of Hotel Laws; Registration of Guests.** A recreational vehicle park shall be operated in conformity with state law relating to hotels. A person staying in a recreational vehicle park shall register and give to the manager, operator, or person in charge the person's name, residence address, and automobile license plate number and the state in which it is registered.
- (C) **Site Plan Approval.** The health authority must approve the site plan before the Development Services Director may approve a site plan under this section.
- (D) **Health Authority Approval Required**
 - (1) A person must obtain a license to establish, maintain, or operate a recreational vehicle park, whether or not payment for use is required.
 - (2) The health authority shall inspect and issue a license, in writing if the recreational vehicle park complies with this section.
 - (3) A license issued under this section is nontransferable and expires one year from the date of issuance. The license fee is set by a separate ordinance.
 - (4) If the health authority denies an application for a license under this section, the applicant may appeal to the council using the procedures established in Article 23-21 (Appeals).
- (E) **Site Development Requirements**
 - (1) A recreational vehicle park must be located on land that is well-drained, free from heavy growth or brush or weeds, and graded or equipped with storm sewers to insure rapid drainage of rainwater.
 - (2) An entrance or exit drive to a recreational vehicle park licensed must:
 - (a) Be surfaced with a minimum width of 18 feet;
 - (b) Be well marked to designate roadway, parking, and unit boundaries;
 - (c) Be lit at night; and
 - (d) Comply with Division 23-11B-7 (Fire Code).
 - (3) A unit reserved to accommodate of a recreational vehicle must:
 - (a) Have a minimum area of 576 square feet, excluding the driveway;
 - (b) Be at least 24 feet wide, defined clearly by markers at each corner; and
 - (c) Be level, free from rock and weeds, and well drained.
 - (4) The owner or licensee of a recreational vehicle park shall provide the park with a water supply that complies with Division 23-5C-3 (Utilities) and is approved by the health authority. An owner or licensee may not provide water from a source other than the City water supply unless the health authority approves the water supply source. The water supply source provided under this section is subject to periodic examination by the health authority and the City.

- (5) The owner or licensee of a recreational vehicle park shall provide the park with a sewer system, either by connecting to the City sewerage system if available, or to a private on-site sewage facility that complies with the applicable provisions of this Title.
- (6) The owner or licensee of a recreational vehicle park shall provide the park with facilities for the collection and removal of landfill trash and recyclable material.
- (7) An owner or licensee of a recreational vehicle park with two or more recreational vehicles shall provide toilet facilities, wash basins, bathing facilities, slop basins, and water faucets and spigots that comply with the Building Criteria Manual where private conveniences for each site or cottage are not provided.
- (8) A toilet facility must be in a room separate from a bathing facility, or partitioned in a manner that provides privacy and promotes cleanliness.
- (9) A community toilet facility must provide private toilet stalls separated by a partition.
- (10) The floor surface surrounding a toilet facility must be designed and constructed to prevent that area from draining on to a shower floor.
- (11) At least five feet must separate a recreational vehicle or other structure from the property line that separates the court from the adjoining property, when measured from the nearest point of the recreational vehicle.
- (12) A sleeping room in a recreational vehicle park must contain at least 1,000 cubic feet, and must have at least two well screened windows with a total window surface area that exceeds 25 square feet. The greatest dimension of a single room must not be more than twice its minimum dimension, and the height from the floor to the top of the wall must be at least seven feet.

23-4E-6300 Recycling Center

- (A) **Frontage.** A recycling center site must have a minimum of 150 feet of frontage on a public thoroughfare.
- (B) **Outdoor Unloading Area.** An outdoor unloading area for recyclable materials must be at least 50 feet from a Mixed-Use or Main Street Zone or residential zone. This requirement does not apply to a portion of a site that abuts a railroad right-of-way.
- (C) **Screening.** The portion of site used for truck maneuvering or the storage, bailing, processing, or other handling of recyclable material must be enclosed by a solid fence or wall with a non-glare finish not less than eight feet in height. This requirement does not apply to a portion of a site that abuts a railroad right-of-way.
- (D) **Loading/Unloading Area**
 - (1) A loading or unloading area or a truck maneuvering area must be paved.
 - (2) A facility operator shall keep the facility free of refuse and putrescible materials.
 - (3) A facility operator may not use chemical or heating processes on the recyclable materials.
- (E) **Drop-off Recycling and Reuse Facility**
 - (1) A drop-off recycling collection facility must comply with the requirements of this subsection.

- (a) A facility must be located in an enclosed structure or enclosable trailer, or be screened on three sides by a solid fence or wall not less than six feet in height. This requirement does not apply to a single-feed reverse vending machine.
 - (b) A facility must be at least 100 feet from an adjoining property that is zoned or used for residential or commercial use.
 - (c) A sign that is visible to the public identifying the facility operator, its telephone number, its hours of operation, and the City of Austin Recycling Hotline telephone number is required.
 - (d) A facility operator shall exchange a trailer that contains a facility for another trailer when the facility reaches its capacity. The operator shall place a replacement trailer in the exact location of the trailer it replaced, unless the trailer is in the fenced boundaries of a drop-off recycling collection facility site.
 - (e) Storage containers that are marked to identify the materials to be deposited are required. Coverable containers for paper and plastic products are required for an unenclosed facility. A sign near the containers stating materials may only be deposited between the hours of 7:00 a.m. and 10:00 p.m. is required.
 - (f) Storage and unloading areas must be paved.
 - (g) The facility operator shall remove all deposited materials from the facility:
 - (i) At least once a week; or
 - (ii) When the containers for a material are full.
 - (h) A facility operator may not remove deposited materials between the hours of 8:00 p.m. and 8:00 a.m.
 - (i) A facility operator shall keep the facility free of refuse and putrescible materials.
 - (j) A facility operator may not use power driven processing equipment at an unenclosed facility. This limitation does not apply to a bulk or single-feed reverse vending machine.
 - (k) A facility that shares a site with another use may not be designed or operated to interfere with the off-street parking, shared parking, traffic circulation, or access required by the other use.
- (2) The operator may seek a waiver of a requirement of Subsection (E)(1) from the council. The waiver request must demonstrate that:
- (a) Compliance with the requirement is an undue hardship on the applicant;
 - (b) Waiver of the requirement will not adversely affect surrounding properties; and
 - (c) The facility substantially complies with requirements of this section.

23-4E-6310 Research and Development

- (A) A research and development use is located in a Commercial Center (CC) or Downtown Core (DC) Zone must comply with the requirements in this section.

(B) The building in which the use occurs:

- (1) Must be a single-tenant building;
- (2) May not include any residential uses or ground floor pedestrian-oriented uses; and
- (3) May not exceed 90 feet in height; and
- (4) The proposed use does not require Group H occupancy, per Division 23-11B-1 (Building Code).

23-4E-6320 Restaurant

(A) **Restaurant with Alcohol Sales for On-Site Consumption.** A business that serves alcoholic beverages for on-site consumption must comply with the following standards:

- (1) **Gross Income.** 51 percent or more of the gross income of the business must be derived from food sales; and
 - (2) **Advertising.** An area within a business devoted to the preparation, sale, and consumption of alcoholic beverages must not be operated or advertised under a name different from the primary business. An outside sign, separate identification, or advertising for the area within the business devoted to the preparation, sale, and consumption of alcoholic beverages must be incidental to and in conjunction with the primary use.
 - (3) To verify compliance with gross income requirements, the building official may require a person who operates or owns a business subject to this subsection to produce documents submitted to taxing authorities. A person's failure to timely produce requested documents is prima facie evidence of a violation of this subsection
 - (4) **Location Restrictions.** A use that includes the sale of alcohol must comply with Section 4-9-4 (Minimum Distance from Certain Uses).
- (B) **Late-Hours Permit.** A restaurant operating late at with a late-hours permit from the Texas Alcoholic Beverage Commission requires a conditional use permit if it is located within 200 feet of a Residential House Scale Zone. The distance is measured to the lot line.
- (C) **Live Entertainment.** Live entertainment is allowed if the amplified sound does not exceed 70 "A"-weighted decibels, measured at the property line of the licensed premises. In this subsection, "premises" has the meaning ascribed to it in the Texas Alcoholic Beverage Code.

23-4E-6330 School

(A) Colleges, Universities or Private Schools

- (1) A site must be located on a thoroughfare that has a paved width of at least 40 feet from the site to where it connects with another thoroughfare that has a paved width of at least 40 feet.
- (2) If more than one dwelling unit is located on the site, the dwelling units must comply with the standards of this Title that are applicable to residential uses.

(B) Public Schools

- (1) In this section, unless stated otherwise, a reference to public school is inclusive of both primary and secondary schools.
- (2) Except as provided in Subsection (C), this subsection applies to the development of a public primary or secondary school, including an open enrollment public charter school as defined under the Texas Education Code.
- (3) A public school is **exempt from**:
 - (a) The requirements of Chapter 23-4 (Zoning) related to floor to area ratio, building entrance, **building form**, frontages, **maximum setbacks** parking placement, common open space, connectivity, **and** building design.
 - (b) The requirements of Chapter 23-9 (Transportation) related to block length and internal circulation routes.
- (4) A public school must comply the requirements of the base zone except where modified by this subsection and Subsection (B)(3).
 - (a) Outside the boundaries of the Austin Independent School District, a public school must not be constructed closer than 25 feet from an adjoining residential use.
 - (b) Within the boundaries of the Austin Independent School District, building height may not exceed the lesser of:
 - (i) 60 feet;
 - (ii) 30 feet, if the facility is located within 50 feet of a Residential House-Scale Zone or single-family use; or
 - (iii) 40 feet, if the facility is located within 100 feet of a Residential House-Scale Zone or a single-family use.
 - (c) Outside the boundaries of the Austin Independent School District, a building must not exceed the lesser of:
 - (i) Two stories or 30 feet, if the facility is located within 50 feet of a Residential House-Scale Zone of a single-family use; or
 - (ii) Three stories or 40 feet, if the facility is located within 100 feet of a Residential House-Scale Zone of a single-family use.
 - (d) An intensive recreational use associated with a public school outside the boundaries of the Austin Independent School District, excluding a multi-use trail and including a swimming pool, tennis court, ball court, or playground, must not be constructed within 50 feet of an adjoining Residential House-Scale Zone.

- (e) Except for security lighting, exterior lighting must be hooded or shielded so that the light source is not directly visible from an adjoining Residential House-Scale Zone.
 - (f) A public school must comply with the impervious cover limits established in Section 23-3D-3110 (**Impervious Cover Limits for Educational Facilities**).
 - (g) **No opaque fencing or screening is required around any building. All other screening requirements apply.**
- (5) Within the Industrial General (IG) Zone:
- (a) A public elementary school is prohibited; and
 - (b) A public secondary school that is not limited to the senior high school level is prohibited.
- (6) Fees associated with the review of a site plan or building permit application required for a public school are waived.
- (7) The Planning Director shall conduct a neighborhood traffic analysis on a site plan or building permit for a public school **in accordance with 23-9C-3010**.
- (C) **School District Development Agreements.** Development of an independent school district school site may be governed by an agreement authorized by Section 212.902 of the Local Government Code. If the City and an independent school district have executed an agreement, the terms of that agreement supersede the requirements of this Title and the criteria manuals to the extent of conflict.

23-4E-6340 Senior/Retirement Housing

- (A) **Building Standards.** Senior retirement housing facilities shall comply with this section and Division 23-11B-1 (Building Code).
- (B) **Registry with Housing Authority of the City of Austin.** The owner of a senior/retirement housing use shall register the use with the Housing Authority of the City of Austin and other local agencies that provide housing assistance to elderly or physically handicapped persons.
- (C) **Additional Requirements for Senior Housing/Retirement in a R1B, R1C, R3B, or R3B Zone.** The requirements of the base zone apply, unless modified by Table (A) (Additional Requirements for Senior/Retirement Housing).

Table 23-4E-6330(A) Additional Requirements for Senior/Retirement Housing

Requirement	R1B, R1C, R3B, or R3B Zones	RM1A Zone
Site Area (min.)	18,675 sf	10,500 sf
Unit Area (min.)	6,225 sf	3,500 sf
Number of Units (max.)	122	-
Parking	Not in front setback unless in the driveway	Not in front setback unless in the driveway

23-4E-6350 Short-Term Rental

(A) Type 1 Short-Term Rental Regulations

- (1) A Type 1 Short-Term use:
 - (a) Is rented for periods of less than 30 consecutive day;s and
 - (b) Is owner-occupied or is associated with an owner-occupied principal residential unit.
- (2) A Type 1 Short-Term Rental use may not:
 - (a) Include the rental of less than an entire dwelling unit, unless all of the following conditions are met:
 - (i) A partial unit must at a minimum include the exclusive use of a sleeping room and shared use of a full bathroom;
 - (ii) The owner is generally present at the licensed short-term rental property for the duration of any short-term rental of a partial unit;
 - (iii) Not more than one partial unit at the property is simultaneously rented for any period less than 30 consecutive days; and
 - (iv) Rental of the partial unit is limited to a single party of individuals;
 - (b) Operate without a license as required by Subsection (D);
 - (c) Operate without providing notification to renters as required by Subsection (E); or
 - (d) Include an accessory dwelling unit except as provided by Section 23-4E-6170 (Duplex), Section 23-4E-6030 (Accessory Dwelling Unit - Residential).

(B) Type 2 Short-Term Rental Regulations

- (1) A Type 2 Short-Term Rental use:
 - (a) Is rented for periods of less than 30 consecutive days;
 - (b) Is not part of a multi-family residential use; and
 - (c) Is not owner-occupied and is not associated with an owner-occupied principal residential unit.
- (2) Type 2 Short-Term Permitted Use Regulations is allowed in a residential zone if:
 - (a) A license was issued before November 23, 2015; or
 - (b) An application received after November 12, 2015; and
 - (c) the license is renewed timely.
- (3) A Type 2 Short-Term Rental use must not:
 - (a) Include the rental of less than an entire dwelling unit;
 - (b) Operate without a license as required by Subsection (D);
 - (c) Operate without providing notification to renters as required by Subsection (E); or

- (d) Include an accessory dwelling unit except as provided by Section 23-4E-6030 (Accessory Dwelling Unit - Residential) and Section 23-4E-6040 (Accessory Dwelling Unit - Non-Residential).
- (4) If a license for a Type 2 Short-Term Rental use meets the requirements for annual renewal under Subsection (D)(5) and the property received a notice of violation related to the life, health, or public safety of the structure, the property is subject to an inspection every three years by the building official to determine if the structure poses a hazard to life, health, or public safety.
- (5) A Type 2 Short-Term Rental use may not be located on a lot that is within 1,000 feet of a lot on which another Type 2 Short-Term Rental use is located, unless the license:
 - (a) Was issued on or before November 23, 2015;
 - (b) Has not been suspended after November 23, 2015; and
 - (c) Is renewed timely.

(C) Type 3 Short-Term Rental Regulations

- (1) A Type 3 Short-Term Rental use:
 - (a) Is rented for periods of less than 30 consecutive days; and
 - (b) Is part of a multi-family residential use.
- (2) A Type 3 Short-Term Rental use must not:
 - (a) Include the rental of less than an entire dwelling unit;
 - (b) Operate without a license as required by Subsection (D); or
 - (c) Operate without providing notification to renters as required by Subsection (E).

(D) License Requirements and Procedures

- (1) This subsection applies to a license as required under Subsections (A)-(C).
- (2) To obtain a license, the owner of a short-term rental use shall submit an application on a form approved by the Housing Director. The application must include the following:
 - (a) A certification by the property owner and, if applicable, property manager that the property is not subject to outstanding City Code or state law violations;
 - (b) The name, street address, mailing address, and telephone number of the owner of the property;
 - (c) The name, street address, mailing address, and telephone number of the local contact required by Subsection (I);
 - (d) The street address of the short-term rental use;
 - (e) Proof of property insurance;
 - (f) Proof of payment of hotel occupancy taxes due as of the date of submission of the application; and
 - (g) Any other information requested by the Housing Director.
- (3) The Housing Director shall issue a license under this section if:

- (a) The application includes all information required under Subsection (D)(2);
- (b) The proposed short-term rental use complies with the requirements of Subsections (A)-(C);
- (c) For a Type 2 short-term rental, no more than three percent of the single-family, detached residential units within the census tract of the property are a Type 1 or Type 2 short-term rental use as determined by the Housing Director under Subsection (F); and
 - (i) The structure has a valid certificate of occupancy or compliance, as required by Division 23-2H-4 (Certificates of Compliance and Occupancy) issued no more than 10 years before the date the application is submitted to the Housing Director; or
 - (ii) The building official determined the structure does not pose a hazard to life, health, or public safety, based on a minimum life-safety inspection.
- (d) For a Type 3 Short-Term Rental located in a zone that is not a Mixed-Use or Main Street Zone, no more than three percent of the total number of dwelling units at the property and no more than three percent of the total number of dwelling units located within any building or detached structure at the property are a Type 3 short-term rental use as determined by the Housing Director under Subsection (F); and
 - (i) The structure and the dwelling unit at issue have a valid certificate of occupancy or compliance, as required by Division 23-2H-4 (Certificates of Compliance and Occupancy) issued no more than 10 years before the date the application is submitted to the Housing Director; or
 - (ii) Th building official determined the structure and the dwelling unit at issue does not to pose a hazard to life,health, or public safety, based on a minimum life-safety inspection.
- (e) For a Type 3 short-term rental use located in a Mixed-Use or Main Street Zone, no more than 25 percent of the total number of dwelling units at the property and no more than 25 percent of the total number of dwelling units located within any building or detached structure at the property are a Type 3 short-term rental use as determined by the Housing Director under Subsection (F); and
 - (i) The structure and the dwelling unit at issue have a valid certificate of occupancy or compliance, as required by Division 23-2H-4 (Certificates of Compliance and Occupancy) issued no more than 10 years before the date the application is submitted to the Housing Director; or
 - (ii) The building official determined the structure and the dwelling unit at issue does not to pose a hazard to life, health, and public safety, based on a minimum life-safety inspection.
- (f) If applicable, the Austin Water Utility determines the septic system complies with Chapter 15-5 (Private Sewage Facilities);
- (g) The property is not subject to outstanding City Code or state law violations;
- (h) The owner pays the fee set by separate ordinance;
- (i) The owner does not meet the standards described in Subsection (J); and
- (j) If applicable, the owner pays the fee required by Subsection (K).

- (4) A license issued under this subsection:
 - (a) Is valid for a maximum of one year from the date of issuance, subject to a one-time extension of 30 days at the discretion of the Housing Director;
 - (b) May not be transferred by the property owner listed on the application and does not convey with a sale or transfer of the property; and
 - (c) Satisfies the requirement for a change of use permit from residential to short-term rental use.
- (5) Except as otherwise provided in this subsection, a license may be renewed annually if:
 - (a) The licensee pays a renewal fee established by separate ordinance;
 - (b) The licensee provides documentation showing that hotel occupancy taxes have been paid for the licensed unit as required by Section 11-2-4 (Quarterly Reports; Payments) for the previous year;
 - (c) The licensee provides updates of any changes to the information required by Subsection (D)(2);
 - (d) The property is not subject to outstanding City Code or state law violations;
 - (e) The licensee or operator does not meet the standards described in Subsection (J);
 - (f) If applicable, the building official determined the structure does not to pose a hazard to life, health, or public safety; and
 - (g) If applicable, the owner pays the fee required by Subsection (K).
- (6) A license for a Type 2 short-term rental described in Subsection (B) may not be renewed in a manner that would extend the license past March 31, 2022.
- (7) The Housing Director may deny an application to renew a license if, on to the date the renewal application was submitted, the license for a short-term rental was suspended as authorized under Section 1307 (1307 (License Suspension) of Division 23-11B-5 (Property Maintenance Code).
- (8) A violation of any provision in the City Code or other applicable law is grounds to deny, suspend, or revoke license.

(E) Notification Requirements

- (1) The Housing Director shall provide a packet of information with each license summarizing the restrictions applicable to the short-term rental use, including:
 - (a) The name and contact information of the local contact designated in the application;
 - (b) Occupancy limits applicable under Subsection (H);
 - (c) Restrictions on noise applicable under Subsection (G)(1)-(G)(3), including limitations on the use of amplified sound;
 - (d) Parking restrictions;
 - (e) Trash collection schedule;
 - (f) Information on relevant burn bans;

- (g) Information on relevant water restrictions;
 - (h) Information on applicable requirements of the Americans with Disabilities Act; and
 - (i) Other guidelines and requirements applicable to short-term rental uses.
- (2) The licensee or operator of a short-term rental use must:
- (a) Provide renters with a copy of the information packet provided in Subsection (E)(1); and
 - (b) Post the packet conspicuously in the common area of each dwelling rental unit included in the registration.
- (3) The Housing Director shall mail notice of the contact information for the local contact to all properties within 100 feet of the short-term rental use, at the licensee or operator's expense.

(F) Determination of Short-Term Rental Density

- (1) The Housing Director shall determine on an annual basis the total number of single-family, detached residential structures within each census tract and use that number to calculate the maximum number of licenses for Type 2 short-term rentals that may be issued in compliance with Subsection (D).
- (2) The determination required in compliance with Subsection (F)(1) is based on the most current utility records for each census tract within the zoning jurisdiction and may not be revised until the next annual determination is made.
- (3) For a Type 3 short-term rental use, the Housing Director shall determine based on active license records following receipt of an application that complies with the requirements of Subsection (D)(2), whether issuance of the license would result in the short-term rental use of more than three percent of the total number of dwelling units at the property or more than three percent of the total number of dwelling units within any building or detached structure at the property.
- (4) For a Type 2 short-term rental use one Type 2 short-term rental license per census tract is allowed if no other property within the census tract is currently licensed as a Type 1 or Type 2 short-term rental use and the use complies with all other license requirements, even if approval of a single Type 2 license in the census tract would otherwise exceed the density cap in compliance with Subsections (F)(1) or (F)(2) or fail to meet the standard of Subsection (D)(3)(c).
- (5) For a Type 3 short-term rental use one Type 3 short-term rental license per property is allowed if no other dwelling unit or structure in the building or at the property is currently licensed as a Type 3 short-term rental use and the use complies with all other license requirements, even if approval of a single Type 3 short-term rental for the building or property would otherwise exceed the density cap in compliance with Subsection (F)(3) or fail to meet the standard of Subsection (D)(3)(d).

(G) General Requirements for Short-Term Rentals

- (1) A licensee or guest of a short-term rental may not use or allow the use of sound equipment that produces sound in excess of 75 decibels at the property line between 10:00 a.m. and 10:00 p.m.

- (2) A licensee or guest of a short-term rental may not use or allow use of sound equipment that produces sound audible beyond the property line between 10:00 p.m. and 10:00 a.m.
 - (3) A licensee or guest of a short-term rental may not make or allow another to make noise or play a musical instrument audible to an adjacent business or residence between 10:30 p.m. and 7:00 a.m.
 - (4) If a building permit prohibiting occupancy of the structure is active, no person can occupy, for sleeping or living purposes, the structure until final inspections have been passed and the building permit is closed.
 - (5) A licensee or operator may not advertise or promote or allow another to advertise or promote a short-term rental without including:
 - (a) The license number assigned by the City to the short-term rental; and
 - (b) The applicable occupancy limit for the short-term rental.
 - (6) An owner, or a person in control of a dwelling, may not advertise or promote, or allow another to advertise or promote, the dwelling as a short-term rental if the dwelling is not licensed by the Housing Director as a short-term rental.
 - (7) A licensee or operator may not advertise or promote or allow another to advertise or promote a short-term rental in violation of the City Code or state law.
 - (8) A person must obtain a license to operate a short-term rental before a property may be used as a short-term rental.
 - (9) Requirements in this subsection apply only when the dwelling unit is being used as a short-term rental, and apply only to that dwelling unit. For purposes of this subsection dwelling unit means the area being used as a short-term rental, including a partial unit described in Subsection (A)(2)(a).
- (H) **Occupancy Limits for Short-Term Rentals**
- (1) Unless a stricter limit applies, not more than two adults per bedroom plus two additional adults may be present in a short-term rental between 10:00 p.m. and 7:00 a.m.
 - (2) A short-term rental is presumed to have two bedrooms, except as otherwise determined through an inspection approved by the Housing Director.
 - (3) A licensee or guest may not use or allow another to use a short-term rental for an assembly between 10:00 p.m. and 7:00 a.m.
 - (4) A licensee or guest may not use or allow another to use a short-term rental for an outside assembly of more than six adults between 7:00 a.m. and 10:00 p.m.
 - (5) For purposes of this subsection, an assembly includes a wedding, bachelor or bachelorette party, concert, sponsored event, or any similar group activity other than sleeping.
 - (6) A short-term rental use may not be used by more than:
 - (a) Ten adults at one time, unless a stricter limit applies; or
 - (b) Six unrelated adults.

(I) **Local Contacts**

- (1) A licensee of a short-term rental use who does not reside within the Austin Metro Area shall identify an individual or individuals to serve as local contacts and respond to emergency conditions.
- (2) A local contact designated under Subsection (I)(1) must be present within the Austin Metro Area and be available to respond within two hours after being notified of an emergency by a guest of the short-term rental, by a City employee, or by an individual entitled to notice of the contact information under Subsection (E), during any 24-hour period.
- (3) If there is a change related to a local contact, the licensee shall provide updated or new information to the Housing Director in writing within three business days.

(J) Repeat Offenses

- (1) If the Housing Director finds that the licensee or operator failed to comply with Subsections (G) or (H) at least twice in a 12-month period, the Housing Director may deny an application to renew a short-term rental license for a period of 12 months.
- (2) If the Housing Director finds that an owner or person in control of a property violated Subsection (G) at least twice in a 12-month period, the Housing Director may deny an application to renew a short-term rental license for a period of 12 months.
- (3) If a property is the subject of repeated substantiated violations of City Code or state law during a 24-month period before applying for a license or renewing a license to operate a short-term rental, the Housing Director may deny the short-term rental license based on:
 - (a) The frequency of any repeated violations;
 - (b) Whether a violation was committed intentionally or knowingly; and
 - (c) Any other information that demonstrates the degree to which the owner or occupant has endangered public health, safety, or welfare.
- (4) A licensee may appeal the Housing Director's decision to deny an application using the process established in Section 1308 (Appeal from License Suspension) of Division 23-11B-5 (Property Maintenance Code).

(K) Non-compliance Fees

- (1) A person who submits an application for a short-term rental license shall pay an additional fee if the application is submitted after the Housing Director sends a notice of violation or cites the person for operating a short-term rental without a license.
- (2) A person who submits a request to renew a short-term rental license shall pay an additional fee if the request is submitted after the Housing Director sends a notice of violation or cites the person for operating with an expired short-term rental license.
- (3) The fee described in this subsection is set by a separate ordinance and must be based on the City's cost to enforce the licensing requirements.

(L) Prima Facie Evidence of a Violation

- (1) An advertisement promoting the availability of a short-term rental in violation of any City Code or state law requirement is prima facie evidence of a violation and is cause to issue an administrative citation for a violation of Subsections (G)(5) – (G)(7).
- (2) Except for a short-term rental use described in Subsection (A), a visual inspection of more than six adults by a City employee at a short-term rental is prima facie evidence

of and is cause to issue an administrative citation for a violation of Subsections (H)(1), (H)(4), or (H)(6)(b).

- (3) Except for a short-term rental use described in Subsection (A), a visual inspection of more than 10 adults by a City employee at a short-term rental is prima facie evidence of and is cause to issue an administrative citation for a violation of the occupancy limits of Subsection (H)(6)(a).

23-4E-6360 Special Uses

- (A) **Applicability.** This section applies to a site if all of the following conditions are met:
 - (1) The structure and land are zoned as a Historic Landmark (H) or Historic District (HD) Overlay Zone;
 - (2) The property is owned and operated by a non-profit entity;
 - (3) The property is directly accessible from a thoroughfare with at least 40 feet of paving;
 - (4) The site has at least one acre of contiguous land area;
 - (5) At least 80 percent of the required parking is on site;
 - (6) A single commercial use does not occupy more than 25 percent of the gross floor area;
 - (7) Civic and public assembly uses occupy more than 25 percent of the gross floor area;
 - (8) Civic and public assembly uses occupy at least 50 percent of the gross floor area; and
 - (9) The property owner does not discriminate on the basis of race, color, religion, sex, national origin, sexual orientation, age, or physical disability in leasing the property.
- (B) **Allowed with Conditional Use Permit.** If not otherwise permitted in the base zone, the following are allowed with a conditional use permit on a site described in Subsection (A):
 - (1) Performance venue/theater;
 - (2) General retail;
 - (3) Library, museum, or public art gallery;
 - (4) Office, general (non-medical); or
 - (5) Restaurant without alcohol sales.

23-4E-6370 Studio: art, dance, martial arts, music

- (A) **Applicability.** This section applies only to a production studio for an individual.
- (B) **Sales.** On-site sales are prohibited.
- (C) **Noise**
 - (1) Noises generated from studio activity may not be audible to an adjacent residence between 7:30 p.m. and 9:00 a.m.

- (2) The noise level of studio activity may not exceed 70 "A"-weighted decibels, measured at the property line.
- (D) **Employee Limit.** No employees, other than owner/operation, are allowed for the production studio use.

23-4E-6380 Telecommunications

- (A) **Exempt.** A telecommunications tower used by a public agency exclusively for police, fire, emergency medical services, 911, or other public emergency communications is exempt from this section.
- (B) **General Site Development Standards**
 - (1) A telecommunication tower may exceed the height restrictions of the base zone.
 - (2) A telecommunication tower must be constructed in accordance with the most recent American National Standard Institute structural standards for steel antenna towers.
- (C) **Telecommunications Towers Allowed by Right in All Zones.** Unless Subsections (D) or (E) apply, a telecommunication tower that complies with the requirements of this subsection is allowed in any zone.
 - (1) The tower must be a replacement for a functioning:
 - (a) Utility pole or light standard within a utility easement or public right-of-way;
 - (b) Recreation facility light pole; or
 - (c) Telecommunication tower.
 - (2) The tower must be similar in appearance and function to the pole, standard, or tower that it replaces, except for the antennae.
 - (3) The tower, including antenna array, may not exceed the height of:
 - (a) The original utility pole, light standard, or recreation facility pole by more than 10 feet; or
 - (b) The original telecommunication tower and antenna array.
 - (4) The tower may not obstruct a public sidewalk, public alley, or other public right-of-way.
- (D) **Telecommunications Allowed by Right in Some Zones.** A telecommunication tower that complies with this subsection is an allowed use in all zones except Residential House-Scale Zones or a MHP Zone.
 - (1) The tower must be located within 200 feet of a MHP Zone or a Residential House-Scale Zone.
 - (2) The tower, excluding antenna array, may not exceed the following height:
 - (a) 75 feet, for a tower less than 250 feet from a MHP Zone or a Residential House-Scale Zone;

- (b) 100 feet, for a tower at least 250, but less than 540, feet from a MHP Zone or a Residential House-Scale Zone; or
- (c) 120 feet, for a tower 540 feet or more from a MHP Zone or a Residential House-Scale Zone.

(E) **Telecommunications Allowed with a Conditional Use Permit in Some Zones.** A telecommunications tower that is not an allowed use under Subsection (D) is allowed with a conditional use permit in all zones except Residential House-Scale Zones or a MHP Zone, if the tower complies with the requirements of this subsection.

- (1) The tower must be located at least 75 feet from a MHP Zone or a Residential House-Scale Zone.
- (2) The tower, excluding antenna array, may not exceed the following height:
 - (a) 75 feet for a tower less than 100 feet from a MHP Zone or a Residential House-Scale Zone;
 - (b) 100 feet, for a tower at least 100, but less than 200, feet from a MHP Zone or a Residential House-Scale Zone;
 - (c) 120 feet, for a tower at least 200, but less than 300, feet from a MHP Zone or a Residential House-Scale Zone; or
 - (d) A height set by the Land Use Commission, for a tower 300 feet or more from a MHP Zone or a Residential House-Scale Zone.

(F) **Site Development Standards for Certain Telecommunication Towers.** A telecommunication tower described in Subsections (D) or (E) must comply with the standards of this subsection.

- (1) The tower may not be located:
 - (a) On or within 300 feet of property that is zoned as Historic Landmark (H) or Historic District (HD) Overlay Zone or included in a National Register District;
 - (b) Within 50 feet of a day care (commercial) use; or
 - (c) Within 50 feet of a residential dwelling unit.
- (2) The tower must be of monopole construction and designed to accommodate at least two antenna array.
- (3) The antenna array must not exceed tower height by more than 10 feet.
- (4) Guys and guy anchors must be at least 20 feet from adjoining property.
- (5) The tower must be:
 - (a) Enclosed by security fencing; and
 - (b) Screened from thoroughfare view by landscaping at least six feet high.
- (6) The tower must be identified by a sign visible from outside the screened area. The sign must state in letters, at least two inches high, the name and telephone number of the tower manager and the Federal Communications Commission license number.
- (7) The distance from a tower to a zone is measured:

- (a) Along a straight line from the center of the tower base to the nearest property line of the zone; or
 - (b) For a distance prescribed by Subsection (F)(1)(c), along a straight line from the center of the tower base to the nearest exterior wall of the dwelling unit.
- (G) **Excluded Properties by Zone.** In this section, a reference to a Manufactured Home Park (MHP) Zone or a Residential House-Scale Zone does not include property that is:
 - (1) Vacant, undeveloped, or unplatted;
 - (2) Used for a public or private primary or secondary school;
 - (3) Used for a college or university;
 - (4) Owned by the United States, the State of Texas, a county, or the City;
 - (5) Used primarily for religious assembly;
 - (6) Used for a cemetery; or
 - (7) Used for a non-residential, nonconforming use.
- (H) **Special Requirements**
 - (1) An application to construct a telecommunication tower described in Subsections (D) or (E) must be accompanied by an affidavit that includes:
 - (a) A description of the search area for the tower location;
 - (b) The elevation required for the antenna array; and
 - (c) The reasons that the antenna array cannot be located on an existing tower or other structure.
 - (2) An applicant who prepares an affidavit required by Subsection (H)(1) shall record the name and address of each person the applicant contacts in attempting to locate the antenna array on an existing tower or other structure. If requested by the City manager, the applicant shall disclose to the City manager the recorded information.
 - (3) This subsection applies if a telecommunication tower, described in this section, ceases to be used for telecommunications.
 - (a) The tower owner and the property owner shall notify the Planning Director that the tower is not being used for telecommunications within 30 days of the cessation of use.
 - (b) If the tower is not used for telecommunications for a continuous one year period, the tower owner and the property owner shall remove the tower. The tower owner and the property owner shall finish the tower removal within 18 months of the date that telecommunications cease.
 - (4) The Planning Director shall maintain a map of all telecommunication towers located within the planning jurisdiction.

23-4E-6390 Work/Live

- (A) **Purpose.** This section establishes the requirements to develop work/live units and to reuse existing residential, commercial, and industrial buildings to accommodate work/live opportunities.

- (B) **Work/Live in Mixed-Use, Main Street, Regional Center, and Commercial and Industrial Zones.** A work/live unit must function predominantly as work space with limited living facilities. This section does not apply to mixed-use developments.
- (C) **Allowed Uses.** The uses allowed in a non-residential component of a work/live development are the uses allowed in the zone in which the building is located.
- (D) **Prohibited Uses.** A work/live unit must not be used for any of the following activities:
- (1) Adult-oriented businesses;
 - (2) Vehicle maintenance or repair vehicle detailing and painting, upholstery;
 - (3) Storage of flammable liquids or hazardous materials beyond that normally associated with a commercial use;
 - (4) Medical marijuana dispensary;
 - (5) Outdoor storage of materials; and
 - (6) Any other activity or use the Planning Director determines is not compatible with adjacent Mixed-Use or Main Street, Regional Center, or Commercial and Industrial activities; and
 - (7) An activity the Planning Director determines has the possibility of affecting the health or safety of work/live unit residents because of the potential for the use to create dust, glare, heat, noise, vibration, smoke, odor, noxious gases, traffic, or other effects, or would be hazardous because of materials, processes, products, or wastes.
- (E) **Residential Density**
- (1) The number of work/live units on a site must comply with the residential density allowed in the base zone.
 - (2) When there is no base zone residential density, the allowed density is the average density of the nearest adjacent residential uses.
- (F) **Occupancy Requirement.** The residential space within a work/live unit must be occupied by at least one individual who is employed in the business that is conducted within the non-residential component.
- (G) **Design Requirements**
- (1) **Floor Area.** The floor area of the working space must be at least 70 percent of the total floor area. Floor area other than that reserved for living space shall be reserved and regularly used for work space.
 - (2) **Access.** Each work/live unit must be accessible from a public thoroughfare or common access areas, corridors, or halls. The access to each unit must be separate from other live/work units or other uses within the building.
 - (3) **Location of Facilities for Commercial or Industrial Activities.** A work/live unit used for commercial or light industrial activities must be constructed in the same manner as a facility used exclusively for the same commercial or light industrial activities.
 - (4) **Integration of Living and Working Space.** An area within a work/live unit that is designated as residential space is an integral part of the work/live unit. The living space shall be accessible to the non-residential space using interior connection. Exterior access must comply with Division 23-11B-1 (Building Code).
 - (5) **Mixed Occupancy Building.** A building may contain work/live units and other non-residential occupancies. The occupancies, other than work/live, must comply all

applicable requirements for those uses, and proper occupancy separations must be provided between the work/live units and other occupancies, as determined by the building official.

- (6) **Signage.** All signage for work/live units must comply with Chapter 23-8 (Signage).
- (7) **Parking.** Parking is required and must comply with Division 23-4E-3 (Parking and Loading). The Development Services Director may modify parking requirements for the reuse of existing structures with limited parking.
- (8) **Landscaping.** Landscaping is required must comply with Division 23-4E-4 (Landscape).

(H) **Operating Requirements**

- (1) **Sale or Rental of Portions of Unit.** No portion of a work/live unit may be rented or sold separately as a commercial or industrial space to a person not living in the premises or as a residential space to a person not working in the same unit.
- (2) **On-premises Sales.** Goods produced within the work/live unit may be sold on-premises if the sales activity is incidental to the primary production work within the unit. These provisions may allow occasional open studio programs and gallery shows .
- (3) **Nonresident Employees**
 - (a) Except as provided in Subsection (H)(3)(b), participation in the business conducted within the work/live unit is limited to two individuals who do not reside in the work/live unit.
 - (b) If the owner obtains a conditional use permit, three or more persons who do not reside in the work/live unit may participate in the business conducted within the work/live unit. A conditional use permit to increase the number of persons who may participate in the business may not be approved unless the Land Use Commission makes an additional finding that the employment will not adversely affect parking and traffic conditions in the immediate vicinity of the unit..
- (I) **Changes in Use.** A work/live unit may be changed to exclusively a residential or commercial use in any building if the residential or commercial use is allowed in the zone in which the building is located.
- (J) **Required Findings for a Conditional Use Permit.** Before the Land Use Commission can approve a conditional use permit for a live/work unit, the Development Services Director shall find that:
 - (1) The work/live units will not conflict or interfere with commercial, or industrial uses in the area where the development is proposed;
 - (2) The building containing the work/live units and each work/live unit within the building is designed to ensure that the units will function predominantly as commercial with incidental residential spaces; and
 - (3) Any changes proposed to the exterior appearance of an existing building are compatible with adjacent commercial or industrial uses.

Division 23-4E-7: Additional General Standards

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23-4E-7010 Purpose

This division establishes additional requirements for certain projects or uses. The purpose of these standards is to ensure that proposed development is compatible with existing and future development on neighboring properties, and produces an environment of desirable character, consistent with the Comprehensive Plan.

23-4E-7020 Applicability

The requirements in this division apply to all proposed development and new land uses, except as provided in Article 23-2G (Nonconformity), and are considered in combination with the standards for the applicable zone and standards in Article 23-4D (Specific to Zones).

23-4E-7030 Development near a Hazardous Pipeline

- (A) **Restrictions on Uses near a Hazardous Pipeline.** A use requiring evacuation assistance is prohibited in a structure intended for human occupancy that is located within 500 feet of a hazardous pipeline. This prohibition does not apply to a structure that is located between 200 feet and 500 feet from a hazardous pipeline if by resolution the city council determines, after receiving a recommendation from the fire chief, that:
- (1) The structure has a performance-based design that provides an adequate time period for occupant evacuation to a safe place in the event of a pipeline leak or fire associated with the pipeline, after considering:
 - (a) The requirements of Division 23-11B-7 (Fire Code) and the 2000 edition of the National Fire Protection Association 101 Life Safety Code;
 - (b) The site and structure design;
 - (c) The structure's building materials;
 - (d) The structure's distance from the pipeline;
 - (e) The use of radiant energy barriers;
 - (f) Access to the site and the structure by emergency responders;
 - (g) Available on-site resources for emergency responders;
 - (h) The topography and other natural features;
 - (i) The use of the structure; and
 - (j) The evacuation capability of the occupants; and
 - (2) The structure incorporates a system for the early detection and notification of a pipeline leak, if the fire chief determines that an appropriate system is commercially available; and
 - (3) The performance-based design for occupant evacuation and the early detection and notification system are certified and sealed by an engineer registered in Texas.
- (B) **Restrictions on Development near a Hazardous Pipeline**
- (1) In this subsection, new construction means construction of a structure intended for human occupancy after April 20, 2003, and includes the construction of a new structure, the construction of an addition to an existing structure and the reconstruction of a portion of an existing structure. The term excludes an addition to or the reconstruction or replacement of a structure existing on April 21, 2003 used for:
 - (a) Single-family residential use;
 - (b) Single-family attached residential use;
 - (c) Duplex residential use;
 - (d) Accessory dwelling unit use; or
 - (e) Manufactured home park use.

- (2) A person may not build new construction within 200 feet of a hazardous pipeline, unless:
 - (a) The director determines that:
 - (i) The new construction has a performance-based design that provides a minimum one-hour time period for occupant evacuation to a safe place in the event of a pipeline leak or a fire associated with the pipeline, in accordance with Division 23-11B-7 (Fire Code) or the 2000 edition of the National Fire Protection Association 101 Life Safety Code; and
 - (ii) The new construction incorporates a system for the early detection and notification of a pipeline leak, if the fire chief determines that an appropriate system is commercially available; and
 - (iii) The performance-based design for occupant evacuation and the early detection and notification system are certified and sealed by an engineer registered in Texas; or
 - (b) The new construction complies with the standards for construction near a pipeline prescribed by the Fire Criteria Manual.
- (3) Except as provided in Subsection (B)(4), a person may not place a structure or excavate within a restricted pipeline area.
- (4) Within a restricted pipeline area, a person may place or construct:
 - (a) The pipeline or an appurtenance;
 - (b) A facility that produces, consumes, processes, or stores the product transported by the pipeline, including a power generation facility;
 - (c) A utility line that crosses the restricted pipeline area, including an appurtenance to the line;
 - (d) A utility service connection;
 - (e) A thoroughfare;
 - (f) A surface parking lot; or
 - (g) A structure or excavation that the director determines does not disturb the pipeline or impede its operation.
- (5) Before a person may place a thoroughfare, surface parking lot, or utility line in a restricted pipeline area, the person must deliver to the director a certification by an engineer registered in Texas stating that the proposed construction activity and structure are designed to prevent disturbing the pipeline or impeding its operation.

23-4E-7040 Dwelling Unit Occupancy Limit

- (A) **Maximum Occupancy.** Except as otherwise provided, not more than six unrelated adults may reside in a dwelling unit.
- (B) Not more than 10 unrelated adults may reside in a dwelling unit if:
 - (1) At least 51 percent of the adults are 60 years of age or older;
 - (2) The adults are self-caring and self-sufficient and participate in the daily operation of the dwelling unit; and
 - (3) The adults live together as a single, non-profit housekeeping unit.
- (C) **Maximum Occupancy in a Duplex.** Not more than three unrelated adults may reside in each unit of a duplex, unless:
 - (1) Before June 5, 2003:
 - (a) A building permit for the duplex structure was issued; or
 - (b) The use was established; and
 - (2) After June 5, 2003, the gross floor area in the duplex structure does not increase more than 69 square feet unless to complete construction authorized before that date or to comply with the American Disabilities Act.
- (D) **Occupancy Limits in Certain Zones**
 - (1) Except as provided in Subsection (D)(2) for a single-family residential or duplex use, not more than four unrelated adults may reside in a structure, in the following zones:
 - (a) Lake Austin Residence (LA) Zone;
 - (b) Rural Residential (RR) Zone;
 - (c) Residential House-Scale 1C (R1C) Zone;
 - (d) Residential House-Scale 2A (R2A) Zone;
 - (e) Residential House-Scale 2C (R2C) Zone;
 - (f) Residential House-Scale 2E (R2E) Zone;
 - (g) Residential House-Scale 3A (R3A) Zone;
 - (h) Residential House-Scale 3C (R3C) Zone; and
 - (i) Residential House-Scale 4C (R4C) Zone.
 - (2) The requirements of this subsection do not apply if:
 - (a) Before March 31, 2014 a building permit was issued for the unit or the use was established; and
 - (b) After March 31, 2014:
 - (i) The gross floor area does not increase more than 69 square feet, except to complete construction authorized before March 31, 2014 or to comply with the American with Disabilities Act, or
 - (ii) Any interior remodel that requires a building permit does not result in additional sleeping rooms.

- (3) A structure located on a site exempt from these standards under Subsection (D)(2) that is partially or totally destroyed by a natural disaster, act of god, or fire does not become subject to this subsection, if a building permit to repair or reconstruct the structure is applied for within one year of the date of the partial or total destruction.
- (E) **Maximum Occupancy for a Site with an Accessory Dwelling Unit.** Not more than two unrelated adults may reside in the accessory dwelling unit, unless
 - (1) The use was established before November 18, 2004; or
 - (2) A building permit was received before November 18, 2004; and
 - (3) After November 18, 2004, the unit was not remodeled to increase gross floor area more than 69 square feet, unless to finish construction authorized before that date or to comply with the American Disabilities Act.
- (F) **Conditional Use Permit.** The Land Use Commission may approve a conditional use permit to allow the occupancy of unrelated adults more than in this section.

23-4E-7050 Encroachments Above Maximum Height

- (A) **Applicability.** This section applies to parapet walls; chimneys; vents; mechanical or safety features including fire towers, guard rails, stairways, elevator penthouses, heating or cooling equipment, solar installations, and protective covers; ornamental towers; cupolas; domes; and spires that are not designed for occupancy.
- (B) **Encroachment Allowed.**
 - (1) A structure described in this section may exceed a base zone height limit by the greater of:
 - (a) 15 percent;
 - (b) The amount necessary to comply with Federal or State requirements;
 - (c) For a stack or vent, the amount necessary to comply with generally accepted engineering standards; or
 - (d) For a spire, 30 percent.
 - (2) The height of a home radio or television receiving antenna or a flagpole may not exceed the lesser of:
 - (a) 50 feet;
 - (b) If attached to a building, 25 feet above the building; or
 - (c) If located on the ground, 125 percent of the base zone height limit.
 - (3) A radio tower operated by a licensed amateur radio operator may not exceed a height of 60 feet plus 15 feet for antennae. The Land Use Commission may approve a conditional use permit that allows a greater height.

- (4) An antenna located on a building in a non-residential zone may exceed the base zone height limit by not more than 20 feet.
- (5) A fly tower that is constructed within a performing arts theater that seats 300 or more people may be up to 80 feet in height, regardless of the base zone height limit. The fly tower must be:
 - (a) Located on land owned by the City; and
 - (b) Designed and used for moving set pieces, lights, microphones, and other equipment on and off stage.

23-4E-7060 Fences and Walls

- (A) **Fences and Walls Allowed.** Fences and walls are allowed in any zone, subject to the requirements of this section.
- (B) **Maximum Height.** A fence or wall must comply with the following maximum height standards, as measured from grade:
 - (1) Four feet, if within a front setback;
 - (2) Eight feet, if within a rear, street side, or interior side setback; or
 - (3) Eight feet, outside of a required setback.
- (C) **Exceptions**
 - (1) This section does not apply to the AV Zone.
 - (2) Along an interior or rear property line, the maximum height for a fence or wall is eight feet if:
 - (a) Each owner of adjacent properties, as applicable, files a written consent for the construction of the fence with the building official; and
 - (b) There is a change in grade of at least two feet within 50 feet of the boundary between the adjoining properties or street if a through lot, or a structure exists that is reasonably likely to enable a child to climb over a six foot fence and gain access to a hazardous situation, including, but not limited to, a swimming pool.
 - (3) Within a required setback, the maximum height for a fence or wall is eight feet if it is located between a residential use and property located in a Mixed-Use, Main Street or, Commercial and Industrial Zone or a residential use and an alley that separates the residential use from a property located in a Mixed-Use, Main Street, or Commercial and Industrial Zone.
 - (4) Fences of any kind, any height, in any zone are prohibited within a floodplain or drainage easement without prior approval by the director.
 - (5) Fences of any kind, any height, in any zone are prohibited within 20 feet (as measured from the property line) of the intersection of:
 - (a) A driveway and a street or alley; or
 - (b) Two streets; or
 - (c) A street and an alley.

(D) **Regulated Materials.** The following materials are prohibited on fences and walls:

- (1) Razor or concertina wire unless approved by a conditional use permit;
- (2) In residential zones, no barbed wire shall be used or maintained as part of or on any fence, wall, or hedge located along the front, side or rear lines of any lot, or within three feet of the lines, and no sharp wire or points shall project at the top of any fence or wall less than six feet in height.
- (3) No electrified fences shall be permitted, regardless of location.

23-4E-7070 Setback Exceptions

(A) **Front Setback Standards for Certain Residential Uses.** The required front setbacks for a single-family, duplex, or accessory dwelling unit is the lesser of:

- (1) The front setback standard of the base zone;
- (2) For an interior lot:
 - (a) If the lots on both sides of an interior lot are legally developed, the minimum front setback of the interior lot is equal to the average of the setbacks of the principal residential structures on the adjacent lots; or
 - (b) If only one lot on a side of an interior lot is legally developed, the minimum front setback of the interior lot is equal to the setback of the principal residential structure on the adjacent lot; or
- (3) For a corner lot:
 - (a) If the lot on the side of the corner lot is legally developed, the minimum front setback of the corner lot is equal to the setback of the principal residential structure on the adjacent lot; or
 - (b) If the lot on the side of the corner lot is vacant, the minimum front setback of the corner lot is equal to the setback of the principal residential structure on the next legally developed lot on the same blockface.

(B) **Front and Side Setback Exemption in Certain Mixed-Use or Main Street Zones.** The council may, by ordinance, designate a location in a Mixed-Use or Main Street Zone that is exempt from the minimum front or side street setback standards of the base zone. To make a designation under this subsection, the council must determine that:

- (1) The location contains at least two non-residential uses that were developed as a neighborhood shopping center or business center in compliance with previous requirements;
- (2) The construction of a new building under the current front or thoroughfare side setback standards would be incompatible with existing buildings;
- (3) At least half of the total lot area that is developed in the area is used for non-residential uses; and
- (4) At least half of the structures in the area do not comply with current front or side thoroughfare setback standards.

(C) **Rear Setback Standard of a Through Lot.** A rear setback of a through lot must comply with the minimum front setback standards of the base zone.

23-4E-7080 Standards for Ramps Located Within Encroachments

- (A) **Ramps.** A ramp for a new or an existing single-family or duplex use may be constructed in a required setback if the ramp complies with Subsections (A)(1)-(3).
- (1) The building official determines the ramp will not pose a threat to public health and safety.
 - (2) Ramp must meet the following dimensional requirements:
 - (a) The width of the ramp must not exceed 48 inches;
 - (b) The landing of the ramp must not exceed 60 inches; and
 - (c) The ramp must not include a roof or wall.
 - (3) **Encroachments into Setbacks.**
 - (a) Ramp must not encroach into the required setback more than the minimum amount necessary to provide access;
 - (b) Ramp must not encroach more than three feet into a side setback;
 - (c) Ramp may encroach into a rear setback only on a lot located:
 - (i) On a corner; or
 - (ii) On a lot accessible from an alley.

Division 23-4E-8: Building Design Standards

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23-4E-8010 Purpose

This division:

- (1) Strengthens the City's unique character and help buildings to better function in the City's environment;
- (2) Creates buildings with appropriate human scale;
- (3) Ensures that buildings contribute to the creation of a pedestrian-friendly environment through the provision of glazing, shading, and shelter at the pedestrian level;
- (4) Lessens the effects of branded architecture that does not reflect the City's unique character and conditions; and
- (5) Increases the quality, adaptability, and sustainability in the City's building stock.

23-4E-8020 Applicability

(A) Applicability. Table (A) (Applicability of Building Design Standards) identifies the types of development that must comply with this division:

Table 23-4E-8020(A): Applicability of Building Design Standards	
Requirement	Applicability
Glazing and Building Facade Relief Requirements	Development of any non-residential land use, except:
	Industrial uses, religious assembly and schools are exempt from glazing requirements.
Options to Improve Building Design	Except for office development, development of any commercial use \geq 10,000 sf that requires a building permit.
	Except for office development, development of any commercial use $<$ 10,000 sf that contains any exterior trademarked design feature.
	Any building zoned for industrial use or warehouse use at the point its use is converted to commercial.

23-4E-8030 Glazing and Building Facade Relief

- (A) Purpose.** Glazing provides interest for pedestrians, connects the building exterior and interior, puts eyes on the street, promotes reusability, and provides a human-scale element on building facades.
- (B) Minimum Requirements.** A development subject to this section, must meet or exceed the following minimum requirements:
- (1) Primary Facade.** Where building frontage is provided under the requirements of Article 23-4D (Specific to Zones), the building facade that faces the primary roadway is the primary facade.
- (a) A minimum of 40 percent of the wall area below 10 feet in height, as measured from the finished floor level of the building facade's entry, must consist of glazing, unless topography, distance, or other physical characteristics remove the building facade from a close physical connection to the primary roadway.
- (b) A minimum of 25 percent of the wall area between 10 feet and 30 feet in height, as measured from the finish floor level of the building facade's entry, must consist of glazing. See Figure (1) (Glazing and Building Facade Relief Requirements).
- (2) Other Facades.** On all other building facades, a minimum 25 percent of the wall area between two and 10 feet in height, as measured from the finish floor level of the building facade's entry, must consist of glazing or building facade relief unless evergreen vegetative screening is allowed and approved by the Development Services Director.

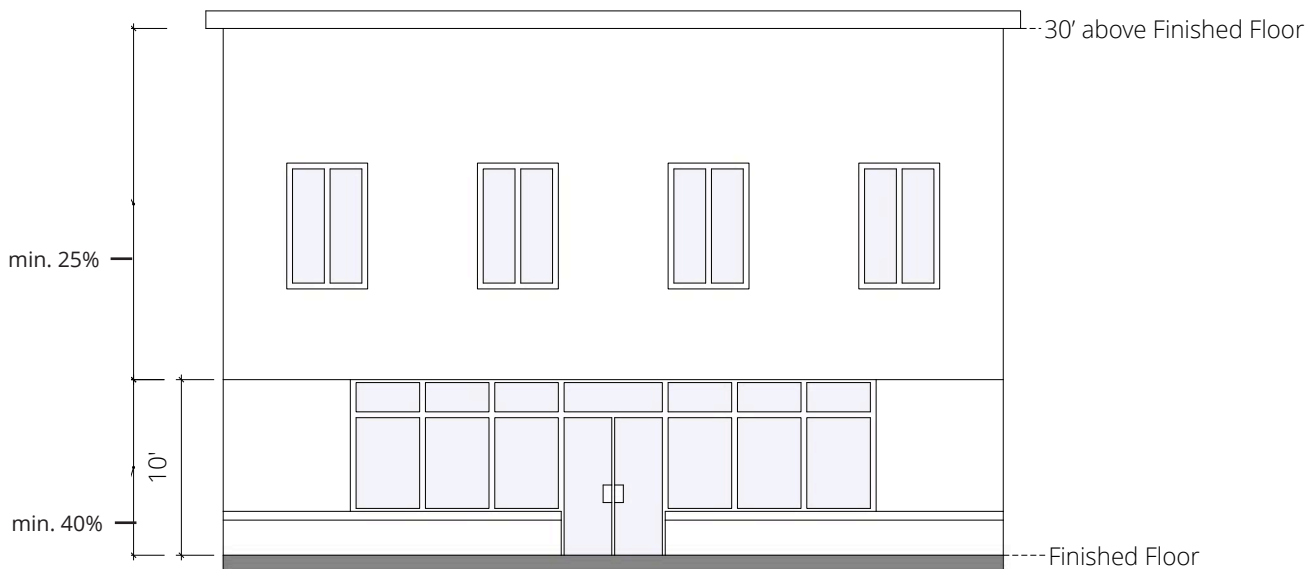


Figure 23-4E-8030(1) Glazing and Building Facade Relief Requirements

- (3) At least one-half of the total area of all glazing on the building facades that face the primary roadway shall have a visible transmittance (VT) of 0.6 or higher.
- (4) The requirements in this section may be reduced to the extent that the required level or location of glazing conflicts with the standards of the adopted Energy Code, Building Code, LEED, or the Green Building Program.

(C) Exemptions

- (1) One building facade is exempt from glazing and building facade relief requirements. The exempt building facade cannot face a primary roadway or internal circulation route.
- (2) A building facade that is built up to an interior property line is not required to have glazing on it if a building may legally be constructed on the adjacent property up to the wall of the building facade.

23-4E-8040 Options to Improve Building Design

(A) General Requirements

- (1) Each building subject to this section must earn one base point from Table (A) (Design Option Points), and may be required to earn additional points, as provided in Subsection (B).
- (2) A development with multiple buildings shall earn the applicable number of points for each building, including any additional requirements under Subsection (B). Points earned may not be aggregated to count toward minimum requirements for other buildings.

(B) Additional Requirements for Certain Types of Development. This subsection establishes when development requires additional points. Points required in this subsection are cumulative.

- (1) A building with exterior trademarked design features requires additional points as follows:
 - (a) Three additional points from Table (A) (Design Option Points) if the features are located 12 feet or less above finished grade and there is no prototypical roof or parapet design; or
 - (b) Five additional points from Table (A) (Design Option Points), two of which must come from Group B, if the features are located more than 12 feet above finished grade.
- (2) Unless otherwise noted, a building plan that depicts any design features in this subsection requires one additional point for each design feature.
 - (a) A one-story building that is greater than 20 feet tall, floor to bottom of roof structure.
 - (b) A building facade that exceeds 200 feet in width but lacks entrances every 75 feet.
 - (c) An individual use that exceeds 100,000 square feet.

- (d) A false front or shaped parapet is created to increase the apparent size of the building or to house corporate signage or logos.
 - (i) A building parapet must not be greater than 50 percent higher than the distance of the building from grade to roof.
 - (ii) Figure (1) (Standards for Height of False Fronts or Parapets) demonstrates this limitation.
- (e) Not including split-faced concrete block, concrete block is used on more than 25 percent of a building facade that is visible to the public.
- (f) Not including split-faced concrete block, concrete block requires two additional points if it is used on more than 75 percent of a building facade that is visible to the public.
- (g) Exterior insulation and finishing system (EIFS) is used as a material on the ground floor that is below 10 feet.
- (h) A pad building with drive-in or drive-through.

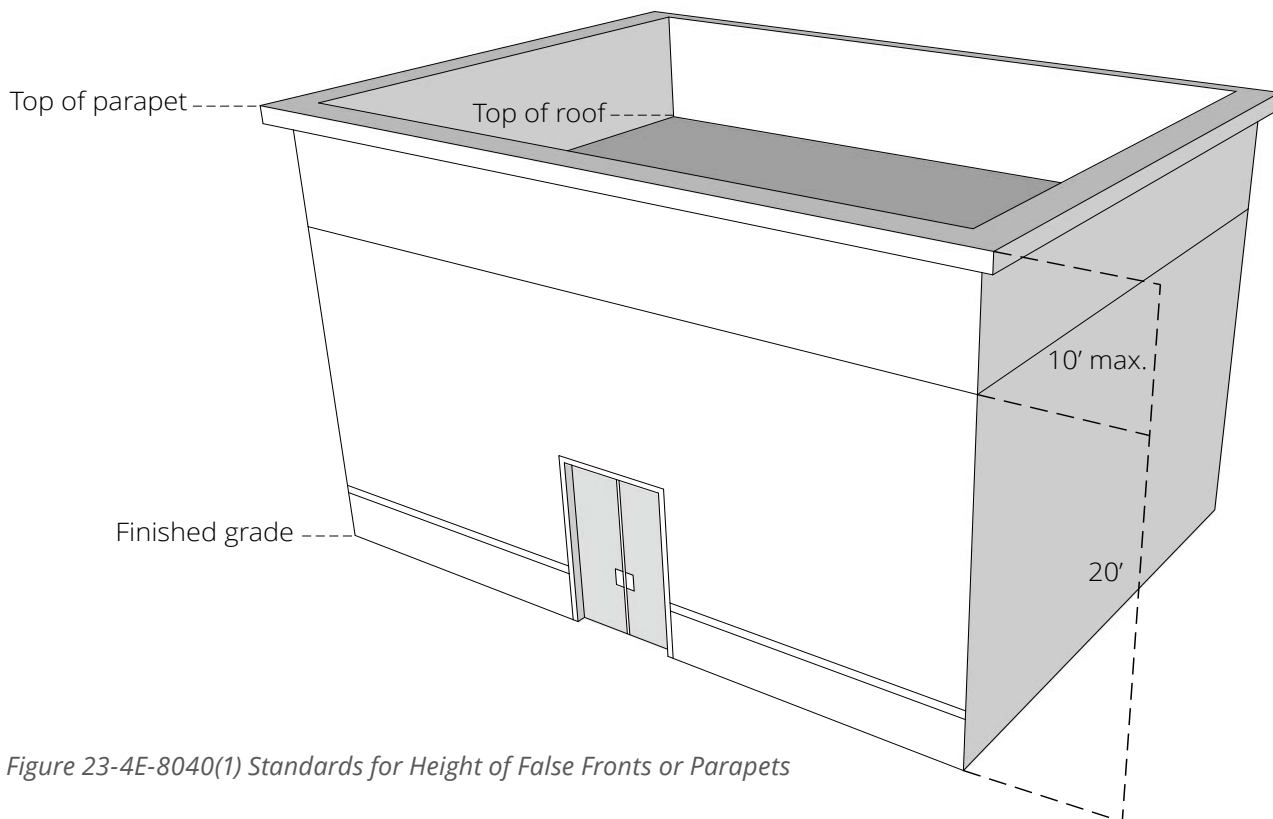


Figure 23-4E-8040(1) Standards for Height of False Fronts or Parapets

Table 23-4E-8040(A) Design Option Points

Option	Description/Comments
Group A: Each option worth 1 point	
Achieve star rating under the Austin Energy Green Building Program	Each star of the rating qualifies for one point. No double credit for Austin Energy Green Building Program points from Group B.
Provide for liner stores in building facade (1 point for each liner store)	See Division 23-13A-1 (Terms)
Provide primary entrance design	See Subsection (C)(1)
Provide building entrances/exits under a shade device	Not applicable to emergency or delivery access. Examples include an awning or portico.
Provide roof design	See Subsection (C)(2)
Use building materials meeting the standards of this Section	Limestone or brick. Brick color must not be a trademarked design feature.
Improve storefronts to regulatory standard of Section 23-4E-8030 (Glazing and Building Facade Relief) for glazing type/size and shading	Applies only for buildings existing before January 13, 2007.
100% of glazing on ground-floor building facades that face any street or parking lot have a visible transmittance (VT) of 0.6 or higher	
Group B: Each option worth 2 points	
Complies with neighborhood design guidelines	
Design building so that at least 75% of the building facade facing the principal street consists of storefronts with at least two separate entrances facing the principal street	
Provide sustainable roof	See Subsection (C)(3)
Integrate solar power generation into building design	The specific features and design shall be approved by the Energy Director. Examples include rooftop solar panels or building integrated photovoltaics.
Group C: Each option worth 3 points	
Achieve Green Building rating of 2 stars	

(C) **Standards for Design Options.** To satisfy the requirements in Subsections (A) and (B), the design options must comply with this subsection.

- (1) **Primary Entrance Design.** Primary entrance design makes a primary entrance architecturally prominent and clearly visible from the abutting street. The primary entrance must include at least three of the following design elements, none of which can be trademarked design features:
 - (a) Architectural details including, arches, friezes, tilework, murals, or moldings;
 - (b) Integral planters or wing walls that incorporate landscape or seating;
 - (c) Enhanced exterior light fixtures including, wall sconces, light coves with concealed light sources, ground-mounted accent lights, or decorative pedestal lights;
 - (d) Prominent three-dimensional features, including, belfries, chimneys, clock towers, domes, spires, steeples, towers, or turrets; or
 - (e) A repeating pattern of:
 - (i) Pilasters projecting from the building facade wall by a minimum of eight inches; or
 - (ii) Architectural or decorative columns.
- (2) **Roof Design.** Roof design must include at least one of the design elements in Table (B) (Roof Design), none of which can be trademarked design features. See Figure (2) (Roof Design) for reference.

Table 23-4E-8040(B) Roof Design

Design Element	Description
Parapets, horizontal top ¹	Must have 1' (min.) height change occurring horizontally every 100' (min.)
Parapets, no horizontal top ¹	Must have pitched or rounded tops with a pattern that repeats or varies every 100' (min.)
	With at least 2 of the following:
Sloping Roofs	A slope of at least 5:1 2 or more slope planes Overhanging eaves extending at least 3' beyond supporting wall
¹ All parapets must have detailing including, cornices, moldings, trip, or variations in brick coursing.	

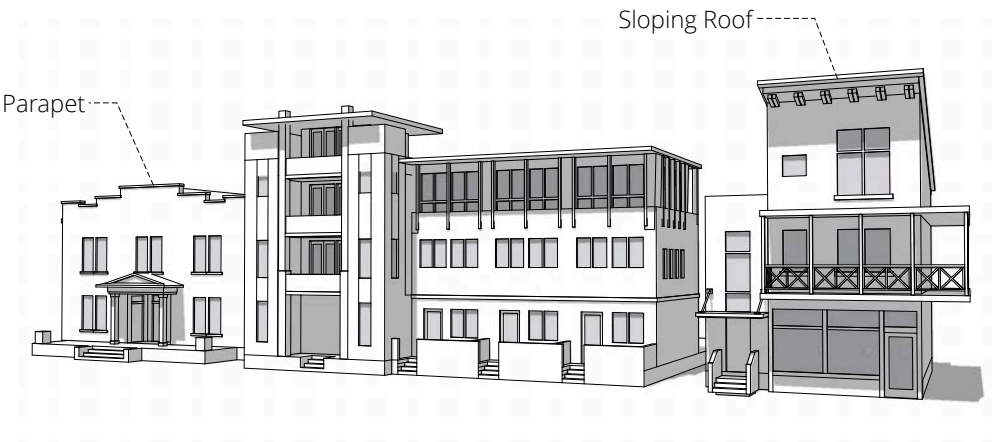


Figure 23-4E-8040(2) Roof Design

(3) **Sustainable Roof.** A sustainable roof must include one of the options in Table (C) (Sustainable Roofing). See Figure (3) (Sustainable Roofing).

Table 23-4E-8040(C) Sustainable Roofing		
Sustainable Roofing	Percent of Total Roof Surface	Description
Solar Reflectance Index (SRI)	75% (min.)	SRI of 78 or higher for roof with slope ≤ 2:12
		SRI of 29 or higher for roof with slope > 2:12
Vegetated Roof	50% (min.)	--
Rainwater Collection System	50% (min.)	--
Combination	75% (min.)	A combination of vegetated roof with rainwater collection system and SRI ¹
¹ In compliance with SRI standards.		

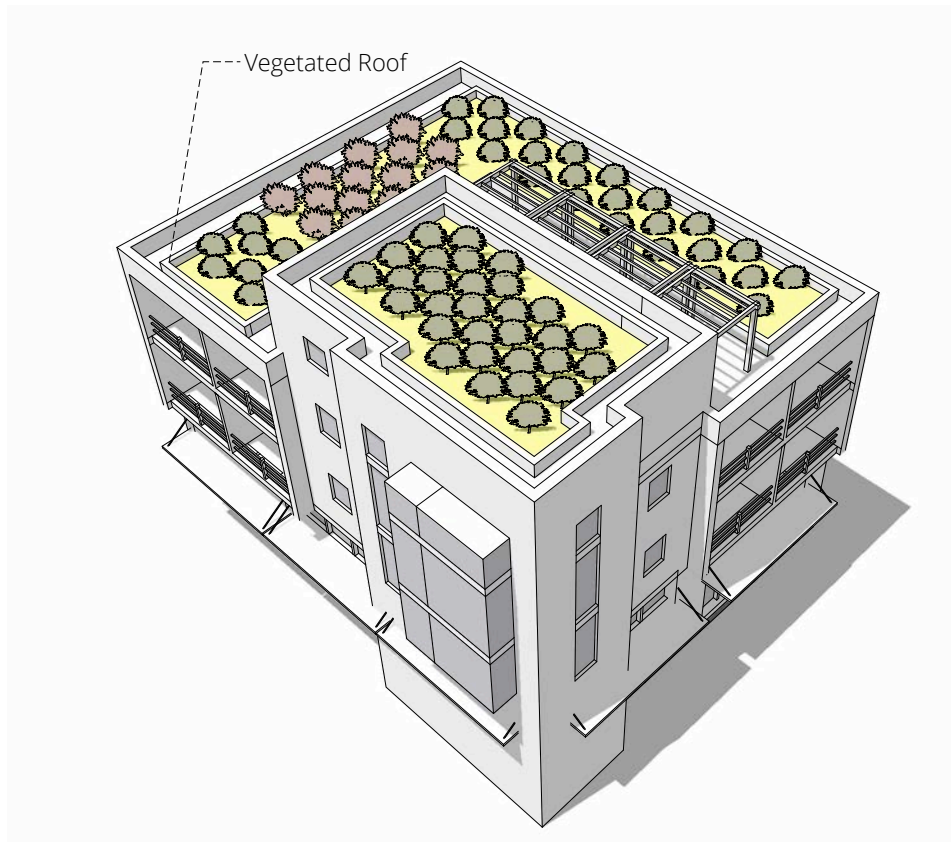


Figure 23-4E-8040(3) Sustainable Roofing

23-4E-8050 Alternatives to Design Options

- (A) **Large Single-Story Buildings.** As an alternative to the requirements in Section 23-4E-8040, a single-story commercial building that is 100,000 square feet or more in size may comply with the requirements in this subsection.
- (1) Excluding the window area and rear service area on sides visible to the public, the building facade must consist of 75 percent masonry, not including concrete blocks.
 - (2) The design features above 12 feet may not be trademarked, and the roof and parapet design features may not be trademarked.
 - (3) The building must comply with the “building facade articulation” requirements established in this division.
 - (4) The building must have at least 40 percent glazing on the front building facade and at least 25 percent glazing and cutouts on each side visible to the public, and glazing has a visible transmittance (VT) of 0.6 or higher.
 - (5) The building design has a Green Building Rating of at least two stars.

(B) **Pad-site Buildings with Drive-In or Drive-Through Services.** As an alternative to the requirements in Section 23-4E-8040, a pad-site building with a drive-in or drive-through services, or a single-use drive-in use may comply with the requirements in this subsection.

- (1) The design features above 12 feet may not be trademarked.
- (2) The portion of the building below 12 feet consists of one of the following:
 - (a) Limestone;
 - (b) Brick that has a different color than a trademarked brick color; or
 - (c) For a building that occupies a pad or portion of a building within a development or shopping center, the building has similar design characteristics, materials, patterns, rhythms, and proportions as the rest of the shopping center.
- (3) The site may not have any parking located between the building and the street.

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Subdivision



PC Motion #100

Recommend approval of Chapter 23-5, 23-7, 23-8, 23-9, 23-10, 23-12, and 23-13 with amendments previously approved

In Article 23-13: Definitions and Measurements, revise the definition of Microbrewery from 15,000 barrels to 5,000 barrels, and review Draft 3 for any terms that have been left undefined, using motions from Planning Commission CodeNEXT Draft 3 Deliberation Spreadsheet as guidance.

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Article 23-5A: Introduction

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23-5A-1010 Purpose and Applicability

- (A) **Purpose.** The purpose of this chapter is to ensure that divisions of land and the creation of lots comply with specified environmental, infrastructure, and regulatory standards prior to development of individual lots or tracts, in order to:
- (1) Promote the development and utilization of land in a manner that ensures a high quality built and natural environment consistent with the goals and policies of the Comprehensive Plan;
 - (2) Create a built-environment that is visually interesting, livable, environmentally sustainable, and supported by a strong foundation of infrastructure, and promotes healthy lifestyles;
 - (3) Protect the public interest by imposing standards for the location, design, class, and type of streets, walkways, alleys, utilities, and essential public services;
 - (4) Provide for orderly and coordinated development within the City of Austin and its extraterritorial jurisdiction and establish a development process that is cost-effective, predictable, and flexible;
 - (5) Create a development pattern that supports an intermodal, connected, and reliable transportation system that is safe for all users;
 - (6) Coordinate the development of adjacent tracts and ensure that development of unplatted tracts, where allowed, is coordinated with existing subdivisions;
 - (7) Ensure the most efficient and beneficial provision of public facilities and services for tracts included in a subdivision, with capacity levels adequate to serve proposed and projected development;
 - (8) Provide for the circulation of traffic throughout the municipality, in a manner that minimizes traffic congestion and promotes pedestrian circulation appropriate to the land use context;
 - (9) Provide for the proper location and width of streets, with the goal of promoting connectivity and ensuring safe traffic flow and emergency access;
 - (10) Provide for neighborhood conservation and compatible infill development, as well as opportunities for a variety of housing types suitable to all income levels;

- (11) Require adequate pollution controls and drainage facilities, to safeguard both surface and groundwater supplies, as well as natural resources and endangered or threatened plant and animal life; and
 - (12) Encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of its land.
- (B) **Applicability.** This subsection describes the types of land divisions and conveyances that constitute a subdivision and the particular requirements of this Title that apply to a subdivision.
- (1) For purposes of this Title:
 - (a) A subdivision of land occurs if a tract of land is divided into two (2) or more parts:
 - (i) To lay out a subdivision of the tract, including an addition to the City ;
 - (ii) To lay out suburban, building, or other lots; or
 - (iii) To lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.
 - (b) For purposes of this chapter, a division of a land occurs regardless of whether the division is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. The division of a tract of land for any of the purposes specified herein does not require a transfer of title of all or part of the tract.
 - (2) Except as provided in Paragraph (B)(3):
 - (a) A subdivision within the City's zoning jurisdiction must comply with the requirements of this Title; and
 - (b) A subdivision within the City's extraterritorial jurisdiction is subject to the general procedural requirements of this Title, including Chapters 23-1 (Introduction) and 23-2 (Administration and Procedures), and must comply with:
 - (i) [Article 23-3B \(Parkland Dedication\)](#);
 - (ii) [Article 23-3D \(Water Quality\)](#);
 - (iii) [Article 23-3E \(Affordable Housing\)](#);
 - (iv) [Division 23-9A-2 \(Proportionality of Transportation Infrastructure Requirements\)](#);
 - (v) [Article 23-9B \(Right-Of-Way Dedication and Reservation\)](#);
 - (vi) [Article 23-9F \(Street Design\)](#);
 - (vii) [Division 23-9E-6 \(Sidewalks, Urban Trails and Street Trees\)](#)
 - (viii) [Chapter 23-10 \(Infrastructure\)](#); and
 - (ix) Technical criteria manuals adopted under requirements listed in this subsection.
 - (3) In the portion of the city's extraterritorial jurisdiction that is within Travis County, a subdivision must comply with Title 30 (Austin/Travis County Subdivision Regulations).

- (C) **Subdivision Standards.** For purposes Texas Local Government Code, Section 212.002, the City's subdivision rules include this chapter and all other provisions of this Title and Title 30 that apply to development for which a preliminary plan, final plat, or other subdivision approval is required.

23-5A-1020 Review Authority

- (A) Authority and responsibility for implementing this chapter is delegated to the director of the Development Services Department, which is referred to in this chapter as "the director." However, the city manager may from time to time delegate particular functions under this chapter to one or more other City departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this chapter, the director may consult with other City departments regarding issues within that department's area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (City Departments and Directors).

23-5A-1030 Compliance

- (A) Unless a parcel of land is determined to be exempt from the requirement to plat under Section 23-5A-1040 (Platting Exemptions), it is a violation of this chapter to divide or develop the parcel, or any portion thereof, unless a subdivision plat has been approved and recorded as required by this chapter.
- (B) Except as provided in Subsection (C), no permit shall be issued for any building, structure, or on-site wastewater system on a parcel of land unless all of the parcel is:
- (1) Located within a subdivision approved and filed for record as required by this chapter; or
 - (2) Determined to be exempt from the requirement to plat under Section 23-5A-1040 (Platting Exemptions).
- (C) The restrictions in Subsection (B) of this section do not apply to:
- (1) Permits for repair, remodeling, and expansion of existing buildings, if the building was legally constructed and the proposed repair, remodeling, or expansion is served by adequate City infrastructure and otherwise complies with the applicable requirements of this Title;
 - (2) Permits to demolish or remove a structure from a parcel or tract;
 - (3) The use of a parcel solely as a community garden, provided that approval and recordation of a plat under this chapter is required if use of the parcel changes from community garden to any other use; or
 - (4) Construction of subdivision infrastructure, consistent with an agreement for alternative fiscal surety approved and executed by the director under Section 23-5B-1070 (Alternative Fiscal).

23-5A-1040 Platting Exemptions

- (A) **Purpose and Applicability.** This section establishes exemptions from the requirement to plat and is adopted under Section 212.0045, Texas Local Government Code.
- (B) **General Provisions.**
- (1) The director shall, at the request of an applicant, determine whether a parcel is exempt from the requirement to plat and may adopt application requirements for evaluating whether a tract meets the applicable exemption criteria under this section. An applicant for an exemption must demonstrate that a parcel meets the applicable criteria and must provide a current deed to the property, an adequate legal description, proof of ownership, and any other information required by the director.
 - (2) A determination by the director under this section shall be made in writing and referred to as a "land status determination." No other certification, including approval to extend or change utility service to a parcel, shall constitute a certification of land status under this chapter.
 - (3) An exemption approved under this section does not constitute a variance from any requirement of this Title, or otherwise authorize development, and shall become void with the recordation of a legal plat including all or a portion of the tract subject to the exemption.
- (C) **Exempt Land Divisions.** The following land divisions are exempt from the platting requirements of this chapter:
- (1) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration is intended;
 - (2) Use of existing cemeteries complying with all State and local laws and regulations;
 - (3) A division of land created by order of a court of competent jurisdiction;
 - (4) A remainder tract omitted from a subdivision plat, if approved by the Land Use Commission under Section 23-5A-1050 (Remainder Tracts); and
 - (5) A division of land that results in the creation of two or more parcels if:
 - (a) Each parcel is greater than five acres, if located inside the full-purpose City limits, or greater than ten acres, if located in the City's extraterritorial jurisdiction;
 - (b) Each parcel has direct access to an existing public streets; and
 - (c) No dedication of public facilities is required in connection with the division under this Title; and
 - (6) Acquisition of land for governmental purposes by dedication, condemnation, or easement.
- (D) **Exemption for Tracts that Predate Subdivision Regulatory Authority.** A parcel of land is exempt from the requirement to plat if the director determines that the parcel existed in its current configuration before becoming subject to the City's jurisdiction over subdivision of land.
- (E) **Health and Safety Exemptions.** A parcel of land is exempt from the requirement to plat if the responsible director determines that the parcel:
- (1) Contains a health or safety hazard associated with a private sewage facility or private water well or other conditions that adversely affect public health, safety or welfare;

- (2) Existed in its current configuration on August 8, 1992;
- (3) Was served by a private sewage facility or private water well on August 8, 1992;
- (4) Is located on an existing public street; and
- (5) Complies with the requirements of this Title for roadway frontage.

(F) Exemptions for Original Unplatted Tracts Configured for Development.

- (1) 1987 Exemption. A parcel is exempt from the requirement to plat if the responsible director determines that the parcel is:
 - (a) Five acres or less;
 - (b) Existed in its current configuration on August 31, 1987;
 - (c) Was receiving utility service that was authorized under the rules of the utility provider on August 31, 1987;
 - (d) Is located on an existing public street; and
 - (e) Complies with the requirements of this Title for roadway frontage.
- (2) 1995 Exemptions. In the full-purpose limits of the City, a parcel is exempt from the requirement to plat if the responsible director determines that the parcel is:
 - (a) Five acres or less;
 - (b) Existed in its current configuration on January 1, 1995;
 - (c) Was receiving utility service that was authorized under the rules of the utility provider on January 1, 1995;
 - (d) Is located on an existing public street; and
 - (e) Complies with the requirements of this Title for roadway frontage.

23-5A-1050 **Remainder Tracts**

(A) Purpose and Applicability.

- (1) A “remainder tract” is any portion of a legal lot or tract that is not wholly contained within the boundaries of a subdivision plat, including portions of a larger lot or tract that were previously divided without approval from the City as required by this Title or other applicable law.
- (2) In order to avoid the creation of substandard or nonconforming tracts, and to ensure that the requirements of this Title are applied to property as a whole, discretionary review under this section is required for the Land Use Commission to approve a preliminary plan or final plat that includes a remainder tract.

(B) Inclusion of Remainder Tracts Prohibited. A preliminary plan or final plat may not include a remainder tract except as provided under Subsection (C).

(C) Approval by Commission.

- (1) **Review Criteria.** At the recommendation of the director, the Land Use Commission:

- (a) Shall approve inclusion of a remainder tract if the portion of the tract omitted from the subdivision meets the applicable regulations of this Title, including minimum lot area, required for a platted lot; or
 - (b) May approve inclusion of a remainder tract if:
 - (i) Including a remainder tract in the proposed subdivision will not substantially impair the orderly planning of roads, utilities, drainage, and other public facilities; and
 - (ii) The portion of the remainder tract omitted from the subdivision:
 - (a) Has direct access onto a public street or through right-of-way dedicated by the applicant, which must be at least 50-feet wide; and
 - (b) May be put to reasonable use without approval of a variance from the requirements of the Title.
- (2) **Action on Remainder Tract.**
- (a) Approval by the Land Use Commission of a preliminary plan or final plat that includes a remainder tract constitutes a determination that inclusion of a remainder tract meets the requirements of Paragraph (C)(1) of this subsection. Separate action approving a remainder tract is not required.
 - (b) If required to meet the criteria in Paragraph (C)(1), the Land Use Commission may require that a remainder tract include more or less of the larger lot or tract's total land area than proposed in the application for preliminary plan or final plat approval.
- (3) **Director's Recommendation.** The director's recommendation to approve a preliminary plan or final plat that includes a remainder tract shall be deemed a recommendation that the remainder tract meets the criteria in Paragraph (C)(1). If required to meet those criteria, the director may conditionally recommend approval subject to inclusion of more or less of the larger lot or tract's total land area than proposed in the application.
- (4) **Application Requirements.** A request to include a remainder tract in a preliminary plan or final plat application must be made concurrent with the preliminary plan or final plat application and must include information required by this subsection.
- (a) To facilitate review of a remainder tract under this section, the director may require an applicant to provide a schematic land plan of the remainder tract depicting topography, natural features, and existing development, but may not require detailed engineering information.
 - (b) A preliminary plan or final plat application including a remainder must be supported by:
 - (i) Written verification, signed by each owner of land within the portion of a remainder tract to be omitted from the subdivision, certifying to the director that the owners is aware that no portion of the remainder tract omitted from the subdivision will be considered a legal lot or eligible to receive initial or expanded utilities unless the tract is platted as required by this chapter; or
 - (ii) Certification that the applicant has provided, by certified mail, the verification form required under Paragraph (C)(5) to each owner of land within the portion of a remainder tract proposed to be omitted from the subdivision.

- (5) **Effect of Approval.** Approval of a preliminary plan or final plat under this section allows inclusion of a remainder tract within the subdivision, but does not constitute a variance from the requirements of this Title or authorize development on the portion of the remainder tract excluded from the subdivision.

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23-5B-1010 Delegation of Approval Authority

(A) Land Use Commission.

- (1) Except as provided in Subsection (C), the Land Use Commission is the delegated authority responsible under Section 212.006, Texas Local Government Code, for approving preliminary plan and final plat applications in compliance with this chapter and other applicable requirements of this Title.
- (2) The Land Use Commission shall review and approve:
 - (a) An application for preliminary plan or final plat approval that complies with the requirements of this Title, as specified under Sections 23-5B-2050 (Action on Preliminary Plan) and 23-5B-3050 (Commission Action on Final Plat);
 - (b) An application for an environmental variance or subdivision variance associated with an application under Section 23-5B-1050 (Variance Determination); and
 - (c) Requests to include a remainder tract within a preliminary plan or final plat under Section 23-5B-1040 (Remainder Tracts).

(B) **Director.** The director, in addition to exercising general administrative authority under Section 23-5A-1020 (Review Authority), is the authority responsible for approving a minor plat under Section 23-5B-3060 (Minor Plats).

(C) **City Council.** The city council is the authority responsible for approval of an application for preliminary plan associated with:

- (1) An application for rezoning to a planned unit development; and
- (2) A development agreement, as authorized under Division 23-2L-2 (General Development Agreements).

23-5B-1020 Timing of Decision**(A) 30-Day Review Period.**

- (1) The Land Use Commission shall act on an application for preliminary plan or final plat approval not later than the 30th calendar day after the application is filed.
- (2) The director shall schedule a preliminary plan or final plat application for consideration by the Land Use Commission on a date no later than the deadline required by this subsection, which is adopted under the Texas Local Government Code, Section 212.009, and supersedes any contrary provisions of this Title.

(B) Statutory Disapproval. In acting on an application for preliminary plan or final plat approval under Subsection (A), the Land Use Commission shall disapprove the application if it is offered for statutory disapproval or fails to comply with the requirements of this Title.**(C) Update Prior to Final Consideration.**

- (1) If the Land Use Commission disapproves a preliminary plan or final plat application within the 30-day period required by Subsection (A), the applicant may submit updates to the application as provided under Division 23-2B-1 (Application Requirements) in order to conform the preliminary plan or final plat to the requirements of this Title.
- (2) The director shall schedule the application for final consideration by the Land Use Commission, together with any variances associated with the application, once the proposed preliminary plan or final plat complies with all applicable code requirements.

23-5B-1030 Supplemental Boards and Commission Review

- (A) If a preliminary plan or final plat application is associated with a separate approval required under this Title, the director shall determine whether review by a board or commission other than the Land Use Commission is required for the separate approval under Subsection (B). If review by one or more additional boards or commissions is required, the director shall schedule the request for board or commission review on the earliest available date following the initial review period for the preliminary plan or final plat application under Section 23-5B-1020 (Timing of Decision).
- (B) The director must provide the following boards and commissions an opportunity to review a request associated with a preliminary plan or final plat application before the Land Use Commission may consider the application or the associated request:
 - (1) The Urban Transportation Commission and the Environmental Commission shall review a request for an amendment to the Transportation Plan;
 - (2) The Water and Wastewater Commission and, if directed by the city council, the Environmental Commission, shall review a request for an amendment to the city's water or wastewater service area boundary; and
 - (3) The Water and Wastewater Commission shall review a request for City cost participation in construction of water or wastewater facilities.

23-5B-1040 Variance Application and Review

- (A) **Variances Authorized.** An applicant may request approval by the Land Use Commission of a variance from the requirements of Article 23-5C (Platting Requirements), in compliance with the procedures in Division 23-2F-1 (Variances and Special Exceptions).
- (B) **Concurrent Application.** If approval of a preliminary plan or final plat application requires a variance, the applicant must file the variance application:
 - (1) Concurrent with the preliminary plan or final plat application or, if it is not apparent that a variance is required at the time application is filed, on the earliest possible date after the director identifies that a variance is required; and
 - (2) No less than seven days before the deadline for placing the application on the Land Use Commission's agenda.
- (C) **Concurrent Notice and Hearing.**
 - (1) Except as provided in Paragraph (C)(1), the director shall schedule a public hearing on a subdivision variance before Land Use Commission concurrent with the preliminary plan application associated with the variance and shall provide Type 1 public hearing notice for both applications under Section 23-5B-2040 (Public Hearing and Notice).
 - (2) An applicant for a subdivision variance may request that the Land Use Commission consider the variance application at a separate public hearing, in advance of the preliminary plan application. If a separate public hearing is requested for a variance application, the applicant shall pay all fees required for notification of the hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice).

23-5B-1050 Variance Determination

- (A) **General Variance Criteria.** The Land Use Commission shall grant a variance from a requirement of Article 23-5C (Platting Requirements) if the Land Use Commission determines that:
 - (1) Enforcement of the requirement would deny the owner reasonable use of the land;
 - (2) Exceptional or extraordinary circumstances apply to the property that:
 - (a) Do not apply generally to other properties in the same zone or vicinity; and
 - (b) And result from lot size or shape, topography, or other circumstances over which the applicant has no control;
 - (3) The variance is necessary in order for the applicant can enjoy a property right, the nature of which owners of properties in the same zone or vicinity possess;
 - (4) The variance is not materially detrimental to the purposes of this Title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy; and
 - (5) The variance is the minimum amount required to alleviate the hardship.
- (B) **Variance Criteria for Specially Approved Development.**
 - (1) If a preliminary plan or final plat is associated with a mass housing project, a planned unit development, or a similar specially approved development, the Land

Use Commission may grant a variance from a requirement of Article 23-5C (Platting Requirements) if the Land Use Commission determines that:

- (a) The requirement for which the variance is sought would, if strictly applied, prevent or unreasonably impede development authorized for the housing project or other special approval; and
 - (b) The development will provide light and air, vehicular and pedestrian circulation, and recreational facilities that meet or exceed the requirements of this Title.
- (2) A variance request under this subsection need not satisfy the criteria in Subsection (A).
- (C) **Applicant's Report.** An applicant for a subdivision variance must provide a written report demonstrating that the variance application satisfies the applicable criteria in Subsection (B) or (C).

23-5B-1060 Infrastructure and Fiscal Surety Requirements

(A) **Director's Recommendation.**

- (1) The director shall provide the Land Use Commission a recommendation regarding streets, transportation facilities, utilities, drainage facilities, and other facilities required for a preliminary plan or final plat to adequately address the impacts of development consistent with the requirements of the Title.
- (2) Where offsite transportation improvements, right-of-way dedications, or similar public facilities are required to be dedicated or funded outside the boundaries of a preliminary plan or final plat, the director must make a proportionality determination consistent with [Division 23-9A-2 \(Proportionality of Transportation Infrastructure Requirements\)](#).

(B) **Requirements for Approval.** Before the Land Use Commission may approve a final plat application under Division 23-5B-3 (Final Subdivision Plat), the subdivision applicant must:

- (1) Construct all required streets, transportation facilities, utilities, and drainage facilities in compliance with the requirements of this Title;
- (2) Provide fiscal surety, as required by Section 23-2B-3020 (Fiscal Surety), for any required streets and other facilities which are not constructed as required by this subsection, except that Surety for water and wastewater infrastructure must comply with requirements established by Austin Water Utility; or
- (3) If approved by the director, execute an agreement for alternative fiscal consistent with the requirements of Section 23-5B-1070 (Alternative Fiscal).

(C) **Use of Fiscal by City.** Fiscal Surety provided under this section may be used by the City to construct subdivision improvements that serve the public interest and are reasonably related to development proposed by the final plat.

23-5B-1070 Alternative Fiscal

(A) **Purpose and Applicability.**

- (1) In lieu of posting standard fiscal surety under Section 23-2B-3020 (Fiscal Surety), this section authorizes the director to execute an agreement for alternative fiscal with a subdivision applicant. Alternative fiscal may only be approved for projects requiring a preliminary plan under Division 23-5B-2 (Preliminary Subdivision Plan).
 - (2) The use of alternative fiscal, where appropriate, reduces costs associated with traditional fiscal surety and avoids the creation of “paper lots” that are not served with adequate infrastructure. As provided in this section, alternative fiscal authorizes the director to hold a plat in abeyance following approval by the Land Use Commission until the subdivision applicant completes all required infrastructure in accordance with applicable standards.
- (B) **Direction’s Approval Required.** The director may approve execution of an agreement to use alternative fiscal surety at the request of a subdivision applicant, if the director determines that the use of alternative fiscal will adequately protect the City’s interests and will not impair the orderly planning of roads, utilities, drainage, or other public facilities in the general vicinity of the proposed development. An agreement for alternative fiscal must be on a form approved by the director and comply with the requirements of this section and any additional standards or specifications adopted by the director.
- (C) **Requirements for Alternative Fiscal Agreement.**
- (1) Timing of Agreement. If the director approves a request to use alternative fiscal, the subdivision applicant must execute an alternative fiscal agreement consistent with the requirements of this section:
 - (a) following approval of a preliminary plan by the Land Use Commission under Division 23-5B-2 (Preliminary Subdivision Plan); and
 - (b) prior to final plat approval under Division 23-5B-3 (Final Subdivision Plat).
 - (2) Terms and Approval of Agreement.
 - (a) The director may not approve an alternative fiscal agreement unless the subdivision applicant:
 - (i) provides a proposed subdivision construction plan that, in the director’s determination, substantially complies with the requirements of Division 23-5B-5 (Subdivision Construction Plan);
 - (ii) posts fiscal surety for erosion controls and restoration of disturbed areas, consistent with the requirements of Division 23-2B-3 (Fees and Fiscal Surety); and
 - (iii) provides any additional information, assurances, or commitments required by the director.
 - (b) An alternative fiscal agreement must specify the requirements under which required infrastructure shall be completed and must specify an expiration date, which may not extend beyond the expiration of subdivision construction plans under Division 23-5B-5 (Subdivision Construction Plan).
 - (3) Effect of Agreement.
 - (a) If the director executes an alternative fiscal agreement under this section:
 - (i) fiscal surety for subdivision infrastructure is not required for final plat approval under Section 23-5B-3050 (Commission Action on Final Plat);

- (ii) subdivision construction plans may be released under Division 23-5B-5 (Subdivision Construction Plan) following approval of the final plat; and
 - (iii) the final plat may not be recorded until all required public infrastructure is completed in accordance with the approved subdivision construction plans and other applicable requirements of the alternative fiscal agreement.
- (b) Approval of an alternative fiscal agreement does not authorize development other than that required to complete subdivision infrastructure in accordance with the approved subdivision construction plans and other applicable requirements of the alternative fiscal agreement.

23-5B-1080 Dedication of Public Right-of-Way

- (A) **Method and Sequence of Dedication.** Except as provided in this section, dedication of public right-of-way under this Title shall be made and shown on a final plat consistent with an approved preliminary plan.
- (B) **Dedication of Public Right-of-Way without a Preliminary Plan.** In order to facilitate improved street connectivity, the director may approve dedication of public right-of-way on a final plat without approval of a preliminary plan consistent with the requirements of this subsection. The director's decision on a request by an applicant under this subsection is final.
- (1) If the right-of-way to be dedicated is 400 feet or less, the director may approve dedication by final plat without approval of a preliminary plan if:
 - (a) the dedicated right-of-way will connect to an existing street that otherwise would not be required to connect with streets in the new development; and
 - (b) the director determines that approval of a final plat without a preliminary plan will not impair the orderly planning of roads, utilities, drainage, or other public facilities in the general vicinity of the proposed development.
 - (2) If the right-of-way to be dedicated is greater than 400 feet, the director may approve dedication by final plat without approval of a preliminary plan if:
 - (a) the dedication meets the criteria in Subsection (B)(1)(a)-(c); and
 - (b) the project enhances pedestrian connectivity by including two or more of the options listed in Table 23-4C-1020(A) (Additional Measures to Improve Connectivity).
- (C) **Dedication by Street Deed.** This subsection establishes requirements by which the director may allow an applicant to dedicate public right-of-way solely by a street deed conveying the easement in metes and bounds, without obtaining approval of a final plat or preliminary plan. The director's decision on a request by an applicant under this subsection is final.
- (1) Except as provided in Subsection (C)(2), the director may accept dedication of public right-of-way by street deed, without approval of a preliminary plan or final plat, if:
 - (a) the development for which the dedication is required does not require subdivision approval under this chapter;
 - (b) the director determines that the right-of-way to be dedicated is for:

- (i) an approved capital improvement project or other publicly-funded project; or
 - (ii) to provide connectivity at the termination of an existing dead-end street, including a cul-de-sac, provided that the extension is the minimum area needed to complete the connection and will not impair the orderly planning of roads, utilities, drainage, or other public facilities; and
- (c) a street name has been assigned or reserved for the public right-of-way to be dedicated.
- (2) The director may not accept dedication of public right-of-way without approval of a preliminary plan or final plat if:
 - (a) the dedication will result in the creation of a non-conforming lot, except that this restriction does not apply to dedication of public right-of-way associated with a capital improvement project or other publicly funded project; or
 - (b) the development for which the right-of-way dedication is required is subject to the platting requirements of this chapter.
- (3) Concurrent with the director's acceptance of dedication by street deed under this section, an applicant shall process a plat amendment under Division 23-5B-4 (Changes to Recorded Plats) to depict the right-of-way dedication consistent with the deed.

23-5B-1090 Acceptance of Public Right-of-Way

- (A) **Effect of Approval or Disapproval.** Approval of a final plat or preliminary plan shall not be considered an acceptance of any proposed dedication and does not impose on the City any duty regarding the maintenance or improvement of any dedicated parts until the appropriate city authorities make an actual appropriation of the dedicated parts by entry, use, or improvement. The disapproval of a plat shall be considered a refusal by the City of the offered dedication indicated on the plat.
- (B) **Method of Acceptance.** The City may accept an offered dedication only by the action of an authorized official, which may be subject to applicable rules or guidelines. The City's entry, use, or improvement of a facility or area under a fiscal surety agreement is not an acceptance of an offered dedication.
- (C) **Right-of-Way Dedications.** The director of the Public Works Department may accept an offered dedication of a public right-of-way by jointly issuing a certificate of acceptance. A public street may not be accepted for dedication unless it is surfaced, curbed, and guttered with required utilities and drainage facilities installed.

23-5B-1100 Plat Notes

- (A) **Purpose and Applicability.** To avoid confusion that results from non-standardized notations on plats, this section specifies rules and guidelines for the use of plat notes in connection with approval of a preliminary plan or final plat application.
- (B) **General Standards.**
 - (1) The director may not require a notation on a plat unless the note is directly related to the subdivision of land and necessary to ensure compliance with the requirements

of this Title. A plat may not contain notations other than those required or allowed by the director.

- (2) Other than engineering notes and other required technical information, plat notations required by the City shall be limited to the dedication of easements, parkland, and common areas and to the provision of facilities and other infrastructure to serve development within the plat.
- (3) If a regulation imposes a buffer or similar non-dedicatory limitation on development within the plat, the director may require an informational plat note describing the general nature of the requirement and referencing the appropriate City department or other official resource for more detailed information.

(C) Parkland Dedication.

- (1) In approving a subdivision that is required to dedicate parkland under Article 23-3B (Parkland Dedication), the director may require a notation on the plat indicating that land has been dedicated or a fee in-lieu paid as required by that article.
- (2) If an application for a preliminary plan or final plat is submitted for a non-residential development that is exempt from parkland dedication under Section 23-3B-1010(Purpose and Applicability), the director may require a plat notation stating that any subsequent residential development within the subdivision may be required to dedicate parkland or make payment in-lieu of dedication as required by Article 23-3B (Parkland Dedication) or other applicable ordinance.
- (3) If a plat note prohibiting residential uses was required by the City of Austin in order to document an exemption from parkland dedication for a non-residential subdivision on or after July 25, 1985, the applicant may amend the plat in order to conform the notation authorized by this subsection.

Division 23-5B-2: Preliminary Subdivision Plan

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23-5B-2010 Purpose and Applicability

- (A) The purpose of a preliminary plan is to ensure that development within an area proposed to be platted is served by adequate public facilities and complies with all applicable requirements of this Title.
- (B) Approval of a preliminary plan is required before a final plat may be approved, or considered for approval, unless:
 - (1) The director determines that:
 - (a) a new street or extension of an existing street is not required to provide adequate traffic circulation consistent with the requirements of this Title; or
 - (b) any required dedication of right-of-way may be made at final plat, without approval a preliminary plan, consistent with the requirements of Section 23-6B-1070 (Dedication of Public Right-of-Way);
 - (2) The applicant has dedicated any additional right-of-way necessary to provide adequate street width for an existing public street abutting a lot; and
 - (3) Drainage facilities are not necessary to prevent flooding, or if necessary, the applicant has provided for the construction of drainage facilities.
- (C) An application for preliminary plan may not be submitted or approved for a proposed development that does not require a preliminary plan under the Land Development Code.

23-5B-2020 Effect of Preliminary Plan Approval

- (A) Approval of a preliminary plan establishes a mutual commitment by the City and the applicant to:
 - (1) The layout and design of the project, including the location and width of proposed streets, lots, blocks, and easements shown on the preliminary plan; and
 - (2) The availability of utilities to serve the proposed lots.

- (B) Approval of a preliminary plan authorizes the subdivider to:
 - (1) Submit construction plans for approval under Division 23-5B-5 (Subdivision Construction Plan) and, upon approval of such plans, to construct public improvements to serve the subdivision in accordance with the approved plans; and
 - (2) Submit an application for approval of a final plat under Section 23-5B-3030 (Final Plat Applications), for land included in the approved preliminary plan.
- (C) Approval of a preliminary plan supersedes a previously approved preliminary plan for the same land.

23-5B-2030 Preliminary Plan Applications

- (A) **Application Requirements.**
 - (1) **Review and Submittal.** The director shall adopt requirements for preliminary plan applications under Article 23-2B (Application Review and Fees), including technical specifications required to complete a preliminary plan application and procedures for staff review and interdepartmental coordination.
 - (2) **Previously Approved Preliminary Plans.**
 - (a) A preliminary plan application may not include unplatted land contained in a previously approved preliminary plan, unless the director determines that including only the requested portion of the previously approved preliminary plan will not substantially impair the orderly planning of roads, utilities, drainage, or other public facilities.
 - (b) An interested party may appeal the director's decision under this subsection to the Land Use Commission in accordance with the requirements of Article 23-21 (Appeals).
- (B) **Notice of Application.** After receiving an application for approval of a preliminary plan, the director shall provide notice under Section 23-2C-5010 (Notice of Application).
- (C) **Expiration.** A preliminary plan application expires unless it is approved within one year from the date of submittal, as provided under Section 23-2B-1040 (Update and Expiration).
- (D) **Concurrent Applications.** If a preliminary plan is associated with development for which any of the following applications are required, the application must be filed concurrently with the application for preliminary plan approval:
 - (1) Approval of a planned unit development district, in which case city council approval of the preliminary plan is required under Section 23-5A-1020 (Review Authority);
 - (2) Amendment to the Comprehensive Plan;
 - (3) Amendment to the city's water and wastewater service area boundary;
 - (4) Cost participation in facilities associated with the preliminary plan;
 - (5) An environmental variance;
 - (6) Waiver or variance from the requirements for dedication or reservation of right-of-way; and
 - (7) Extension of water or wastewater service.

23-5B-2040 Public Hearing and Notice

- (A) **Public Hearing.** The director shall schedule a preliminary plan application for public hearing and consideration by the Land Use Commission or, if applicable, the city council, on the first available meeting after the director determines that:
- (1) The application meets the requirements of this Title, and no outstanding updates are required under Section 23-2B-1040 (Update and Expiration), unless the applicant requests in writing that the preliminary plan be scheduled for hearing subject to the director's recommendation that the Land Use Commission deny the application;
 - (2) If required, the applicant has obtained a commitment for water or wastewater service from the entity providing the service;
 - (3) For land located in the zoning jurisdiction, the land is zoned for the uses proposed; and
 - (4) For a preliminary plan to be considered by the city council, no outstanding updates are required under Section 23-2B-1040 (Update and Expiration) for applications associated with the preliminary plan.
- (B) **Public Notice.** The director shall provide Type 1 public notice under Section 23-2C-4020 (Type 1 Public Hearing Notice) for a preliminary plan scheduled for hearing under Subsection (A). Notice of a public hearing before the city council on a preliminary plan application may be consolidated with notice of hearing on other applications associated with the preliminary plan.

23-5B-2050 Action on Preliminary Plan

- (A) **Commission Action.** After conducting a public hearing under Division 23-2D-1 (Conduct of Public Hearings), the Land Use Commission shall approve or deny the preliminary plan application based on the criteria in Subsection (B). For a preliminary plan application associated with an application for a planned unit development, the Land Use Commission shall recommend approval or disapproval of the preliminary plan concurrent with its recommendation to city council on the planned unit development.
- (B) **Standard for Approval.**
- (1) The Land Use Commission shall approve a preliminary plan application if the proposed plat is consistent with the Comprehensive Plan and:
 - (a) If within the zoning jurisdiction, complies with the applicable standards for the zone in which the plat is located;
 - (b) Complies with applicable requirements of Article 23-3D (Water Quality);
 - (c) If applicable, complies the requirements of , a development agreement approved under Division 23-2L-2 (General Development Agreements), an interlocal agreement, or other special approval; and
 - (d) Provision and configuration of streets and transportation improvements, water, wastewater, drainage, and park facilities:
 - (i) Conforms to any adopted facilities plans, including applicable provisions of the transportation plan and drainage master plan; and

- (ii) Meets the applicable requirements of Article 23-3B (Parkland Dedication), Article 23-3D (Water Quality), Article 23-3E (Affordable Housing), Article 23-9A-2 (Proportionality of Transportation Infrastructure Requirements), Article 23-9B (Right-of-Way Dedication and Reservation), Article 23-9F (Street Design), Division 23-9E-6 (Sidewalks, Urban Trails and Street Trees), and Chapter 23-10 (Infrastructure).
- (2) The Land Use Commission may not deny or withhold approval of a preliminary plan application that meets the requirements of this Title. If the Commission denies a preliminary plan application, the Commission shall specify each requirement in Subsection (B)(1) that it finds has not been met and the actions required to satisfy the requirement.

23-5B-2060 Expiration of Approved Preliminary Plan

An approved preliminary plan expires five years after the date the application was submitted. A new preliminary plan is required to plat any land for which a final plat application was not submitted prior to expiration of the preliminary plan.

23-5B-2070 Changes to Approved Preliminary Plan

- (A) **Purpose and Applicability.** In order to provide reasonable flexibility in project design and construction, this section authorizes the director or Land Use Commission to approve certain changes to an approved preliminary plan without requiring submittal of a new preliminary plan application. Approval of a new preliminary plan is required for any change beyond the limits specified in this section, and a change may not be approved following expiration of the preliminary plan or approval of a final plat.
- (B) **Application Requirements.** Depending on the significance of a requested change, the director may require submittal of a formal application or may allow information to be provided informally. An applicant requesting to change an approved preliminary plan shall:
 - (1) Submit all information required by the director to determine whether the request is within the scope of changes authorized under this section; and
 - (2) Provide written verification that all landowners within the area included in the preliminary plan support the requested change, unless the director determines that the requested change does not impact other sections of the preliminary plan.
- (C) **Changes Approved by the Director.** The director may approve a change to an approved preliminary plan under this subsection if the change would not, in the director's determination, significantly increase the amount of right-of-way required to be dedicated or otherwise impair the orderly planning of roads, utilities, drainage, and other public facilities.
 - (1) **Minor Deviation.** The director may approve a minor deviation to change the size or configuration of lots, street widths or alignments, and the size or location of utility and access easements, provided that the deviation does not:
 - (a) increase the number of lots;
 - (b) change the use of a lot;

- (c) increase impervious cover;
 - (d) change the basic street layout;
 - (e) modify a covenant or restriction or any conservation easement, common area, green space, or other green space shown on the preliminary plan;
 - (f) require a variance or modify a previously approved waiver or variance; or
 - (g) affect property outside the proposed plat.
- (2) Minor Revision. The director may approve a minor revision, which requires greater interdepartmental review than a deviation, in order to:
- (a) increase the number of lots;
 - (b) change street layouts;
 - (c) accommodate a change in use resulting from rezoning or land acquisition through eminent domain; or
 - (d) at the discretion of the director, make other changes of similar scope and effect, provided that the change may not:
 - (i) increase the number of dwelling units; or
 - (ii) exceed the limits for a minor deviation under Subsection (C)(1), except for revisions authorized under Paragraph (2)(a)-(c).
- (D) **Changes Approved by Commission.** For a preliminary plan approved on or after October 28, 2013, an applicant may request that the Land Use Commission approve a change in land use for up to 25 percent of the land area included in the preliminary plan. The Commission may approve the request if it finds that the change would not significantly increase the amount of right-of-way required to be dedicated or otherwise impair the orderly planning of roads, utilities, drainage, and other public facilities.

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Division 23-5B-3: Final Subdivision Plat

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23-5B-3010 Purpose and Applicability

- (A) The purpose of a final subdivision plat is to ensure that, prior to initiation of site development or the extension of public utilities, the division of land subject to the plat is consistent with applicable standards of this Title and that public improvements to serve the subdivision and address its impacts on surrounding areas have been installed and accepted by the City or that provision for such installation has been made.
- (B) Unless a minor plat is approved under Section 23-5B-3060 (Minor Plats), approval of final subdivision plat is required for any non-exempt division of land and prior to any site preparation activities for a lot or tract of land that requires installation of public improvements on or adjacent thereto.

23-5B-3020 Effect of Plat Approval

- (A) Approval of a final plat:
 - (1) Supersedes and controls over all portions of the final plat included in a previously approved preliminary plan;
 - (2) Authorizes the director to record the plat under Section 23-5B-3070 (Recordation and Expiration), upon completion of public improvements or posting of fiscal surety; and
 - (3) Authorizes the subdivision applicant to:
 - (a) Install any improvements in the public right-of-way consistent with approved subdivision construction plans; and
 - (b) Submit site plan or building permit applications for developable lots within the subdivision.
- (B) Approval of a final plat does not authorize development activity for which a site plan or building permit application is required.
- (C) Actions authorized under Subsection (A) may not be taken if the final plat application expires prior to recordation under Section 23-5B-3070 (Recordation and Expiration).

23-5B-3030 Final Plat Applications

(A) Application Requirements.

- (1) **Review and Submittal.** The director shall adopt requirements for final plat applications under Article 23-2B (Application Review and Fees), including technical specifications required to complete a final plat and procedures for staff review and interdepartmental coordination.
- (2) **Approval of Preliminary Plan Required.** Unless the director determines that land within the final plat is exempt under Section 23-5B-2010(B) (Purpose and Applicability), only land included in an approved and active preliminary plan may be included in a final application. An application for final plat need not include all land within an approved preliminary plan.
- (3) **Expiration of Final Plat Application.** A final plat application may not be submitted for land included in a preliminary plan that has expired under Section 23-2B-2070 (Expiration of Approved Preliminary Plan).1040 (Update and Expiration), but applications for final plat submitted before the preliminary plan expired may be approved consistent with this division.

(B) **Notice of Application.** After receiving an application for approval of a final plat, the director shall provide notice under Section 23-2C-5010 (Notice of Application).

(C) **Expiration of Final Plat Application.** A final plat application expires unless it is approved one year after the date of submittal, as provided under Section 23-2B-1040 (Update and Expiration). The one-year expiration period may not be tolled under Section 23-2B-1050 (Tolling of Expiration Period) for a period of more than 90-days after the director provides notice to the applicant that the application meets the requirements of this Title.

23-5B-3040 Public Hearing and Notice

(A) **Public Hearing.** The director shall schedule a final plat application for public hearing and consideration by the Land Use Commission on the first available meeting after:

- (1) The director determines that the final plat meets the requirements of this Title, and no outstanding updates are required under Section 23-2B-1040 (Update and Expiration) or unless the applicant requests, in writing, that the application be scheduled for hearing subject to the Director's recommendation that the Land Use Commission deny the application;
- (2) The director determines the amount of fiscal surety required under Division 23-2B-3 (Fees and Fiscal Surety) as a condition of plat recordation;
- (3) The owners of all land included in the proposed final plat have signed the plat and each owner's signature is acknowledged; and
- (4) The director approves subdivision construction plans for the final plat, or the applicant includes the following notation on the proposed plat:

"The owner of this subdivision and the owner's successors and assigns are responsible for construction of subdivision improvements that comply with City of Austin standards. The owner understands that plat vacation or replatting may be required, at the owner's expense, if plans to construct this subdivision do not comply with the standards."

- (B) **Public Notice.** The director shall provide Type 1 public notice under Section 23-2C-4020 (Type 1 Public Hearing Notice) for a preliminary plan scheduled for hearing under Subsection (A).

23-5B-3050 Commission Action on Final Plat

- (A) **Commission Action.** After conducting a public hearing under Division 23- 2D-1 (Conduct of Public Hearings), the Land Use Commission shall approve or deny the final plat application under the criteria in Subsection (B).
- (B) **Standard for Approval.**
- (1) The Land Use Commission shall approve a final plat application if the proposed plat is consistent with the preliminary plan, if applicable, and meets the standards required under Section 23-5B-2050 (Action on Preliminary Plan).
 - (2) Approval of a final plat is conditioned on:
 - (a) Positing fiscal surety in that amount required by the director under Division 23-2B-3 (Fees and Fiscal Surety), which shall be required prior to plat recordation under Section 23-5B-3070 (Recordation and Expiration); or
 - (b) Executing an alternative fiscal agreement, if approved by the director under Section 23-5B-1070 (Alternative Fiscal).
 - (3) The Land Use Commission may not deny or withhold approval of a final plat application that meets the requirements of this Title. If the Commission denies a final plat application, the Commission shall specify each requirement under Subsection (B) (1) that it finds has not been met and the actions required to satisfy the requirement.
- (C) **Certification.** The director shall provide notice of the Land Use Commission's decision to approve a final plat application under Section 23-2C-5020 (Notice of Administrative Decision), which constitutes certification of plat approval for purposes of the Local Government Code, Chapter 212. A notation of the Land Use Commission's action on a final plat application, and the reasons for the action, shall be entered into the minutes for the meeting at which the action was taken.

23-5B-3060 Minor Plats

- (A) **Purpose and Applicability.**
- (1) The purpose of this section is to simplify the development process by authorizing administrative approval of certain less intensive divisions of land for which approval by the Land Use Commission is deemed unnecessary.
 - (2) For purposes of this section, a "minor plat" is a plat that:
 - (a) consists of no more than four lots, each of which must front on an existing street;
 - (b) does not require dedication of a new street;
 - (c) is located within 200 feet of available water and wastewater service; and
 - (d) does not require approval of a variance by the Land Use Commission.

- (B) **Notice of Application; Expiration.** After receiving an application for approval of a minor plat, the director shall provide notice under Section 23-2C-5010 (Notice of Application). A minor plat application expires if it is not approved within one year of submittal, as provided by Section 23-2B-1040 (Update and Expiration).
- (C) **Action on Minor Plat Application.** The director shall approve or deny a minor plat application under the same standards applicable to final plats approved by the Land Use Commission under Section 23-5B-3050(B) (Commission Action on Final Plat). After determining whether to approve or deny a minor plat, the director shall provide notice of the decision under Section 23-2C-5020 (Notice of Administrative Decision).
- (D) **Effect of Minor Plat Approval.** Approval of a minor plat has the same effect as approval of a final plat under Section 23-5B-3020 (Effect of Plat Approval).

23-5B-3070 Recordation and Expiration

- (A) **Plat Recordation.** Upon approval of a plat application, the director shall:
 - (1) Obtain the signature of the Land Use Commission chair on the final plat; and
 - (2) In the manner prescribed by Local Government Code, Section 212.004, record the plat with the clerk of each county in which any portion of the plat is located; provided that, prior to plat expiration under Subsection (B), the subdivision applicant must:
 - (a) Satisfy the applicable fiscal surety requirements of this chapter by:
 - (i) Posting fiscal surety as required by Section 23-5B-1060 (Infrastructure and Fiscal Security), consistent with the requirements of Division 23-2B-3 (Fees and Fiscal Surety); or
 - (ii) Completing all required infrastructure consistent with the terms of an alternative fiscal agreement, if the director has approved and executed an agreement for use of alternative fiscal under Section 23-5B-1070 (Alternative Fiscal);
 - (b) Execute any further commitments required for infrastructure to be installed under approved subdivision construction plans;
 - (c) Provide any additional items required to record the plat, including all acknowledged signatures of all landowners with the approved subdivision; and
 - (d) For a plat within the extraterritorial jurisdiction, obtain approval of the final plat by the county within which the proposed subdivision is located, as required under the Local Government, Chapter 232, or an approved interlocal agreement with the county.
- (B) **Plat Expiration.** An approved plat expires, and may not be recorded, if all requirements for recording the plat under Subsection (A) have not been satisfied on the 81st business day following:
 - (1) Approval of the final plat by the Land Use Commission;
 - (2) Acceptance of public infrastructure by the City under an alternative fiscal agreement approved by the director under Section 23-5B-1070 (Alternative Fiscal); or
 - (3) For a minor plat, the date the director provides notice of plat approval as required under Section 23-5B-3060 (Minor Plats).

Division 23-5B-4: Changes to Recorded Plats

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23-5B-4010 Amending Plats

(A) Purpose and Applicability.

- (1) An amending plat provides a means of making minor revisions to a recorded plat, without replatting or vacating the underlying plat.
- (2) An amending plat, as required by state law, may only be approved if the sole purpose of the amendment is to do one or more of the following:
 - (a) Correct an error in a course or distance shown on the preceding plat;
 - (b) Add a course or distance that was omitted on the preceding plat;
 - (c) Correct an error in a real property description shown on the preceding plat;
 - (d) Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - (e) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - (f) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (g) Correct an error in courses and distances of lot lines between two adjacent lots;
 - (h) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - (i) Relocate one or more lot lines between one or more adjacent lots;
 - (j) For an area located in a residential improvement area approved, as designated by the city council, make to the preceding plat that are necessary to create six or fewer lots in a subdivision or a part of the subdivision covered by the preceding plat;
 - (k) Replat one or more lots fronting on an existing street; or
 - (l) Allow for modification, abandonment, or addition of an easement with the written consent of entities to which the easement is dedicated.

- (B) **Application Requirements.** A request for approval of an amending plat must be made by filing an application, in a form approved by the director, and providing all information required by the director to evaluate the request.
- (C) **Effect of Approval.** If approved by the director, an amending plat may be recorded and is controlling over the preceding plat.
- (D) **Standards for Approval.** The director may approve, or conditionally approve, an amending plat if the application:
 - (1) Requests only changes to the recorded plat that are allowed under Subsection (A);
 - (2) Does not attempt to remove or modify recorded covenants or restrictions or extinguish easements or other public dedications;
 - (3) Does not request approval of a lot that would violate the requirements of this Title or, for a substandard or nonconforming lot, increase the degree of noncompliance;
 - (4) If a correction in courses and distances of lot lines between two adjacent lots is proposed:
 - (a) Both lot owners join in the amending plat application;
 - (b) Neither lot is abolished; and
 - (c) The amending plat does not have a material adverse effect on the property rights of the owners in the plat;
 - (5) If relocation of lot lines between one or more adjacent lots is proposed:
 - (a) The owners of all those lots join in the amending plat application; and
 - (b) The amendment does not increase the number of lots; and
 - (6) If lots fronting on an existing street are to be replatted:
 - (a) The owners of all those lots join in the amending plat application;
 - (b) The amendment does not increase the number of lots;
 - (c) The amendment does not establish or require a new street or the extension of municipal facilities.
- (E) **Expiration.** Approval of an amending plat shall expire if the plat is not submitted for recordation as required under Section 23-5B-3070 (Recordation and Expiration).

23-5B-4020 Resubdivisions

- (A) **Approval Without Vacation.** A resubdivision of all or a portion of a recorded plat may be approved without vacation of the recorded plat if:
 - (1) The resubdivision plat is signed and acknowledged by only the owners of the property being resubdivided; and
 - (2) The replat does not propose to amend or remove any covenants or restrictions included on or incorporated into the previously recorded plat.
- (B) **Effect of Approval.** Upon approval, a resubdivision may be recorded and is controlling over the previously recorded plat for the portion resubdivided.

- (C) **Application Requirements.** An application is subject to the same requirements as a final plat application, including notification under Section 23-5B-3030 (Final Plat Applications), and must include the following additional information:
- (1) If the resubdivision adds or deletes lots, it must include the original subdivision and lot boundaries; and
 - (2) If a resubdivision is submitted for only a portion of a previously platted subdivision, the resubdivision must reference the previous subdivision, by name and recording information, and must state which lots have changed and describe the purpose for the change.
- (D) **Public Notice and Hearing.** The director shall provide notice of a public hearing on a resubdivision application before the Land Use Commission in the manner required for a final plat application under Section 23-5B-3040 (Public Hearing and Notice).
- (E) **Standard for Approval.** A resubdivision application must comply with the same requirements for approval as a final plat application under Section 23-5B-3050 (Commission Action on Final Plat).
- (F) **Supplemental Requirements.**
- (1) A resubdivision may be subject to additional notification, protest, and super-majority approval requirements under the Local Government Code, Section 212.015, if:
 - (a) During the preceding five years, any of the area to be resubdivided was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or
 - (b) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
 - (2) The director shall require an applicant for a resubdivision to verify whether the conditions in Paragraph (F)(1) are met and, if the conditions are met, shall provide additional notification required by Local Government Code, Section 212.015.
 - (3) If a subdivision variance is required to approve a resubdivision application for which additional notification is required under Paragraph (F)(2), adjoining landowners may pro-test the application in compliance with Local Government Code, Section 212.015. If protest applications are filed, the director shall determine consistent with state law whether approval of the resubdivision requires the concurring vote of three-fourths of the members of the Land Use Commissioners present at the meeting where the application is considered.

23-5B-4030 Plat Vacations

- (A) **Applicability.** A plat vacation application must be approved in the manner prescribed for the original plat, prior to vacation of any recorded plat or portion thereof. A plat may be vacated only in conjunction with approval of a new plat application if the vacation would result in any unplatted land.
- (B) **Application Requirements.** To vacate a plat, an application must be filed on a form approved by the director and must meet the requirements of this subsection.

- (1) A property owner may submit an application to vacate only the portion of a subdivision plat where the owner's lots are located, provided that no lots have been sold within the recorded subdivision plat. If any lot in a subdivision has been sold, the recorded subdivision plat or any portion thereof may be vacated only upon application of all lot owners in the subdivision.
 - (2) If approval of a preliminary plan or final plat application is required to approve a plat vacation, the applicant shall file the preliminary plan or final plat application concurrently with the plat vacation for land subject to the recorded plat or portion thereof to be vacated.
- (C) **Approval by Land Use Commission.** If the plat vacation requires approval by the Land Use Commission, the following is required:
- (1) **Public Notice and Hearing.** The director shall provide notice under Section 23-2C-5010 (Notice of Application) of an application to vacate a plat and schedule the application for hearing before the Land Use Commission concurrent with the new final plat or preliminary plan application for the same land.
 - (2) **Action on Plat Vacation.** The Land Use Commission shall approve an application for plat vacation upon approving a final plat application for the same land and shall defer action on the plat vacation when considering an associated preliminary plan . If the Land Use Commission denies the final plat application, the application for plat vacation is also denied.
- (D) **Effective Date of Plat Vacation.** A plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat. On the execution and recording of the vacating instrument, the vacated plat shall have no further force or effect.

23-5B-4040 Replats

A replat must be filed concurrently with a plat vacation under Section 23-5B-4030 (Plat Vacations), in accordance with the procedures applicable to a final plat application under Division 23-5B-3 (Final Subdivision Plat). An application for replat must be submitted in a form approved by the director and include all information required by the director to evaluate the proposed subdivision.

Division 23-5B-5: Subdivision Construction Plan

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23-5B-5010 Subdivision Construction Plan

- (A) Approval of a subdivision construction plan, in a form approved by the Director, is required to ensure that public improvements and infrastructure required to serve the subdivision are installed in compliance with the requirements of this Title.
- (B) Application for approval of a subdivision construction plan unless it is approved within one year from the date of submittal, as provided under Section 23-2B-1040 (Update and Expiration).
- (C) The director shall approve a subdivision construction plan that meets the requirements of this Title, including adopted technical specifications, and shall release an approved subdivision construction plan once the applicant:
 - (1) posts fiscal surety required under Division 23-2B-3 (Fees and Fiscal Security); or
 - (2) executes an agreement for alternative fiscal, if authorized by the director under Section 23-5B-1070 (Alternative Fiscal).
- (D) The director's release of a subdivision construction plan authorizes the applicant to begin development of subdivision infrastructure in compliance with the approved plan.

23-5B-5020 Expiration of Subdivision Construction Plan

- (A) A subdivision construction plan expires three years after the date of approval unless:
 - (1) Before the construction plan expires, site work is commenced and diligently pursued to completion;
 - (2) The Land Use Commission sets a later expiration date concurrent with approval of the final plat application; or
 - (3) The director extends the expiration date under Subsection (B).
- (B) The director may extend the expiration date of the subdivision construction plan once for a period of one year if:
 - (1) Before the expiration date, the applicant submits a written request and justification explaining why the site work has not been completed; and
 - (2) The director determines that:

- (a) There is good cause for the extension;
- (b) There has been no significant change in development conditions affecting the plan; and
- (c) The plan continues to comply with the criteria for its approval and release.

23-5B-5030 Construction Management and Certification

- (A) Construction management for a subdivision is governed by Article 23-2H (Construction Management and Certificates).
- (B) Issuance of a certificate of compliance for a subdivision is governed by Division 23-2H-4 (Certificates of Compliance and Occupancy).

Article 23-5C: Platting Requirements

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Division 23-5C-1: Property Markers, Easements, and Alleys

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23-5C-1010 Property Markers

A surveyor shall mark each boundary corner, intermediate property corner, curve point, and angle point of a subdivision with a permanent marker identified in the most recent edition of the Manual of Practice for Land Surveying in Texas, published by the Texas Society of Professional Surveyors. One boundary corner shall be marked with a concrete monument, unless a concrete monument exists on an adjacent platted subdivision within 1,300 feet of the proposed plat. Permanent markers along boundary lines may be spaced not more than 1,300 feet apart.

23-5C-1020 Easements and Alleys

Easements for public utilities and drainage ways shall be retained in all subdivisions in the widths and locations determined necessary by the director. All easements shall be dedicated to public use for the named purpose and shall be aligned to minimize construction and future maintenance costs.

23-5C-1030 Easements in Areas Adjoining Proposed Subdivision

If the director determines that easements in areas adjoining a proposed subdivision are necessary to provide adequate drainage or utility service consistent with the requirements of this Title, the subdivider shall obtain the easements or make arrangements with the City to obtain them.

23-5C-1040 Hazardous Pipelines

- (A) The applicant shall determine whether a hazardous pipeline crosses a proposed subdivision and, if so, shall depict a restricted pipeline area on the plat.
- (B) A residential lot may not include a pipeline-restricted area if the lot is less than one acre in size, excluding the restricted pipeline area.

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23-5C-2010 Lot Arrangement

- (A) The side lines of lots shall be approximately at right angles to straight street lines or radial to curved street lines. The director may disapprove a proposed arrangement placing adjacent lots at right angles to each other.
- (B) The arrangement of lots shall reflect the location of protected resources and other natural features of the property.
- (C) Side lot lines shall be perpendicular or radial to the street, and rear lines should be approximately parallel to street lines. However, different lot shapes are allowed if it is demonstrated they are necessary or desirable to achieve the following conditions:
 - (1) Better relate building sites to the terrain on the site, or to provide better site utilization and building relationships;
 - (2) Preserve protected resources or other natural features while still providing generally rectangular building envelopes;
 - (3) Better integrate open space set-asides while still providing generally rectangular building envelopes; or
 - (4) Create a more efficient lot design.

23-5C-2020 Minimum Lot Size and Area

- (A) In the zoning jurisdiction, a lot shall comply with the site development standards for the zone in which the lot is located.
- (B) In the extraterritorial jurisdiction, residential lot requirements are as follows:
 - (1) In a subdivision served by a public wastewater system or central wastewater disposal unit, a residential lot must be at least:
 - (a) 5,000 square feet; or
 - (b) 6,000 square feet for a corner lot; or

- (2) In a subdivision with private on-site sewage facilities, as determined by Texas Administrative Code Title 30, Chapter 285 (On-Site Sewage Facilities):
 - (a) Minimum lot width is:
 - (i) 50 feet for an interior lot;
 - (ii) 60 feet for a corner lot; or
 - (iii) 33 feet for a lot on a cul-de-sac or curved street; and
 - (b) Minimum lot frontage is:
 - (i) 20 feet; or
 - (ii) 30 feet, if a culvert is required for a driveway approach.
- (C) The director may reduce the minimum lot frontage prescribed by Subsection (B) if the director determines that access to the lot is restricted to a joint use driveway.

23-5C-2030 Lot Frontage

Each lot shall contain at least 15 feet of frontage along a public right-of-way.

23-5C-2040 Flag Lots

- (A) For a flag lot configuration, the minimum width of a flag pole is:
 - (1) 20 feet; or
 - (2) 15 feet if:
 - (a) Two or more contiguous lots share a common driveway and sufficient area is available outside the drive on each lot for utility installation; or
 - (b) The applicant can demonstrate access through an alternative route.
- (B) A driveway plan and utility plan is required for residential flag lots.
- (C) All addresses for residential flag lots shall be displayed at their closest point of access to a public street for emergency responders. The final plat shall contain a note to this effect.

23-5C-2050 Townhouse Lots

- (A) An applicant shall provide for maintenance of, and payment of taxes on, common areas included in a subdivision containing Townhouse lots.
- (B) Common areas for a plat containing Townhouse lots shall be identified on the plat. An applicant shall submit to the director a legal memorandum or other instrument that describes the rights and duties of the owners, the legal status of common areas and facilities, and the provisions for taxation and maintenance of the common areas.

23-5C-2040: Flag Lots

[PC Motion #101](#)

Require a variance for all Flag Lots as is required in Title 25.

23-5C-2060 Single-Family Attached Lots

- (A) **Purpose and Applicability.** This section establishes subdivision standards applicable to single-family attached and duplex uses that cross lot lines. Compliance with this section is required where a single residential structure containing two dwelling units is authorized under this Title to be constructed or maintained over a property line separating two or more legal lots or tracts. Dimensional standards for single-family attached and duplex uses are established in Chapter 23-4 (Zoning).
- (B) **General Standards.** If a use is subject to this section:
- (1) a zero lot line is not allowed on a front or street-side lot line;
 - (2) a maintenance easement is required in the dominant side yard of a lot;
 - (3) a use easement is required in the subordinate side yard of a lot; and
 - (4) Appropriate and adequate space must be provided for utilities including water meters and wastewater cleanouts.
- (C) **Covenants, Conditions and Restrictions.** A plat of a single-family attached subdivision may not be recorded unless a Declaration of Covenants, Easements, and Restrictions or similar document has been approved by the city attorney, recorded, and referenced on the plat. The document shall:
- (1) Require that development and use of the lots comply with this Title;
 - (2) Require that construction of a dwelling unit comply with Article 23-11B, Division 1 (Building Code), Division 4 (Electrical Code), Division 5 (Mechanical Code), Division 6 (Plumbing Code), and Division 7 (Fire Code).

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23-5C-3010 Water Lines

- (A) A subdivision within 100 feet of a public water system shall be connected to the public water system. The applicable director may waive this requirement.
- (B) If a subdivision is to be served by a public water system:
 - (1) Approval of the water system plans by the applicable director is required; and
 - (2) Installation of the water system shall comply with the requirements of this Title, the Utilities Criteria Manual, details, specifications, standard products lists, and applicable state standards; and
 - (3) Water lines, service connections, and water meters to serve each lot shall be installed and accepted before a lot may be occupied.

23-5C-3020 Wastewater Lines

- (A) A subdivision within 100 feet of a public wastewater system shall be connected to the public wastewater system. In the extraterritorial jurisdiction, the director may waive this requirement.
- (B) If a subdivision is to be served by a public wastewater system:
 - (1) Approval of the wastewater system plans by the director is required;
 - (2) Installation of the wastewater system in compliance with the requirements of this Title, the Utilities Criteria Manual, standard details, specifications, standards products list, and applicable state standards; and
 - (3) Wastewater lines, service lines, and wastewater cleanouts to serve each lot shall be installed and accepted before a lot may be occupied.

23-5C-3030 Gas Lines

If natural gas from a public utility is available within 2,000 feet of a subdivision, the subdivider shall:

- (1) Prepare plans for installation of natural gas lines to serve each lot and install the portions of the lines that are under a street or alley; or
- (2) Place a note on the plat, in a form approved by director, stating that natural gas lines have not been installed.

23-5C-3040 Installation of Lines

A subdivider shall arrange with the appropriate utility departments and utility companies for the construction of water, wastewater, and gas utility lines unless the director approves the installation of utility lines by another entity.

23-5C-3050 Requests for Utility Service

- (A) To have municipal water or wastewater service extended to land within the extraterritorial jurisdiction, an applicant shall file with the director of the Water and Wastewater Utility a written request for:
 - (1) Extension of service; and
 - (2) If the land is not covered by the utility's certificate of convenience and necessity, annexation by the City.
- (B) The City may record an applicant's request in the county deed records.

23-5C-3060 Independent Utility Districts and Private Water and Sewer Corporations

- (A) This section applies to a subdivision that is to receive retail water or wastewater service from an entity other than Austin Water.
- (B) A plat may not be approved unless the subdivider has complied with the requirements of this subsection.
 - (1) The subdivider shall provide the director with a copy of a contract between the subdivider and the utility service provider that provides for installing utility lines and furnishing adequate utility service.
 - (2) Unless otherwise provided by written contract between Austin Water and the utility service provider:
 - (a) Water or wastewater system plans shall comply with the requirements of this Title and the Utilities Criteria Manual.

- (b) Approval of water or wastewater system plans by the applicable director, and the Texas Commission on Environmental Quality, if applicable, is required.
- (c) Approval of the construction of water or wastewater facilities by the director is required. A City inspector shall inspect the facilities during construction and the developer shall pay applicable inspection fees.

23-5C-3070 Subdivisions Without Access to Water or Wastewater Services

- (A) A plat may not be approved unless the subdivider has complied with the requirements of this section, if applicable.
- (B) If a subdivision is not to be served by a water utility, the subdivider shall provide the director with evidence that water suitable for human consumption may be obtained from surface or subsurface sources on the land. The evidence may include the results of tests and borings, and statements from local and state health authorities, water engineers, and other competent authorities. If the subdivider proposes a private water supply for the subdivision, the plans and specification shall be prepared by a registered professional engineer and approved by the director and the [Texas Commission on Environmental Quality](#).
- (C) If a subdivision is not to be served by a sanitary sewer utility and the use of private on-site sewage facilities has not been approved by the local health authority, the subdivider shall construct a community sewage collection and treatment system that serves each lot. The system shall be designed and located in compliance with the standards of the Texas Natural Resource Conservation Commission and the local health authority. Approval by the director of the plans for the system is required.

23-5C-3080 Private On-Site Sewage Facility

A subdivision that is to be served by private on-site sewage facilities shall comply with Chapter 15-5 (Private Sewage Facilities) of the City Code.

23-5C-3090 Street Lights

- (A) A subdivision construction plan shall not be approved unless the subdivider has complied with the requirements of this section. If a subdivision construction plan is not required, the plat shall not be approved unless the subdivider has complied with the requirements of this section.
- (B) This section applies to the residential portion of a subdivision if the subdivision is located:
 - (1) At least partially inside the city limits; or
 - (2) Outside the city limits, and the subdivider has requested annexation.

- (C) A subdivider shall pay street lighting charges to Austin Energy. The director may waive this requirement if the director determines that street lighting is not necessary, the requirement imposes an unreasonable hardship on the applicant, or obtaining payment for street lighting is impractical.
- (D) The City shall use a payment collected under this section to install street lights in the residential areas of the subdivision for which it was collected.
- (E) This section does not require the City to install street lights in a subdivision that has not been annexed.

Site Plan



[PC Motion #102](#)

Recommend approval of Chapter 23-6 with amendments previously approved and the following additional changes:

1. Direct Staff to revisit Site Plan Lite and establish a process not to exceed 2 months that is administered by DAC with Watershed Protection review.

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Article 23-6A: Purpose and Applicability

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23-6A-1010 Purpose and Applicability

- (A) The purpose of this chapter is to establish procedures for review and approval of development requiring a site plan. Review of a site plan for new development ensures that all approved site and structural development:
 - (1) Promotes the orderly development of the City in conformance with the goals and policies of the Comprehensive Plan, other applicable plans, the standards specified in this Title, and other adopted rules/criteria;
 - (2) Protects the environmental characteristics of the site;
 - (3) Contributes to and preserves the character of the City;
 - (4) Supports the economic vitality of the community by ensuring that new development is compatible with existing development;
 - (5) Ensures the proper placement, extension, and sizing of infrastructure to provide reliable service and minimize customer outages during maintenance and repair; and
 - (6) Ensures public health, safety, and welfare.
- (B) A site development permit must be approved and released to authorize the development of a property, a change of use of a property, and before a building permit is issued under Division 23-7B-3 (Permit Expiration and Extension). Exemptions to site plan review are described in Division 23-6A-2 (Exemptions).

23-6A-1020 Review Authority

- (A) Authority and responsibility for implementing this chapter is delegated to the Development Services Director, which is referred to in this chapter as "the director." However, the City manager may from time to time delegate particular functions under this chapter to one or more other City departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this chapter, the director may consult with other City departments regarding issues within that department's area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).

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Division 23-6A-2: Exemptions

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23-6A-2010 Site Plan Exemptions

(A) Determination

- (1) **Approval Procedure.** The director shall determine whether a development is exempt from site plan review under this division if the development does not increase the extent to which the development is nonconforming under Section 23-2G-1020 (Nonconforming Status) or require a variance under Section 23-4B-4020 (Variances) or other approval from a City board or commission. The director may require an applicant to submit the information necessary to make this determination. Table (A) (Site Plan Exemptions) describes the developments and activities that are exempt from site plan review.
- (2) **Effect of Determination.** A determination by the director that a proposed development is exempt from site plan review does not exempt the development from regulations of this Title, except where specifically provided by this Title.

Table 23-6A-2010 (A) Site Plan Exemptions

Allowed Site Plan Exemptions	Standards for Grant of Exemption
Antenna placement by a provider of personal wireless services, as defined by United States Code Title 47, Section 332(c)(7)(C)	See Subsection 23-6B-1020 (C) for noticing requirements.
Change of use to a permitted use, unless Adult Entertainment	Provided the new use complies with the off-street parking requirements of this Title.
Clearing an area max. 15 feet wide for surveying and testing	Provided the clearing does not result in the removal of a tree regulated under Article 23-3C (Urban Forest Protection and Replenishment).
Commercial portable building on existing impervious cover	Provided the following conditions apply: (1) The building does not impede or divert drainage; and (2) The site complies with the landscaping requirements of this Title.

Table 23-6A-2010 (A) Site Plan Exemptions	
Allowed Site Plan Exemptions	Standards for Grant of Exemption
Docks and bulkheads repair, maintenance, replacement, or modification	<p>Provided the following conditions apply:</p> <ul style="list-style-type: none"> (1) The dock or bulkhead was legally constructed; (2) The work does not increase the existing footprint of the dock or shoreline access; (3) The work does not add, change, or replace structural components, including, but not limited to, walls, load bearing beams, piers, or pilings; and (4) For a bulkhead, the repair does not exceed 25 percent of the bulkhead or the portion of the bulkhead on a lot or tract; and no repair to the bulkhead was done without a site plan in the previous three years.
Fence construction	Provided the fence does not obstruct the flow of water.
Interior alteration of an existing building	Provided the alteration does not increase the floor area, lot coverage, or height of the building.
Construction and change less than 1,000 square feet and the limits of construction is less than 3,000 square feet.	<p>Provided the following conditions apply:</p> <ul style="list-style-type: none"> (1) Construction is not for a new drive-in service or additional lanes for an existing drive-in service, unless the Development Services Director determines that it will have an insignificant effect on traffic circulation and surrounding land uses; (2) Construction does not result in the removal of a tree regulated under Article 23-3C (Urban Forest Protection and Replenishment); and (3) Construction is not located in the 100-year floodplain, unless the Watershed Director determines that it would have an insignificant effect on the waterway. (4) The limits of construction for driveway closings and sidewalk modification do not count toward these square footage limits.
Impervious cover or building modification up to 3,000 square feet. This may be combined with the 1,000 construction exemption above, and is not in addition to it.	<p>Provided the following conditions apply:</p> <ul style="list-style-type: none"> (1) The site is developed; and (2) The modification provides accessible facilities for persons with disabilities.

Table 23-6A-2010 (A) Site Plan Exemptions

Allowed Site Plan Exemptions	Standards for Grant of Exemption
Relocation or demolition of a structure or foundation	<p>Provided the following conditions apply:</p> <ul style="list-style-type: none"> (1) The foundation or structure does not cover more than 10,000 square feet of site area under a demolition permit; (2) The relocation or demolition does not result in the removal of a tree regulated under Article 23-3C (Urban Forest Protection and Replenishment) and damages to the critical root zone; and (3) The site is not cleared.
Restoration of a damaged building	<p>Provided the following conditions apply:</p> <ul style="list-style-type: none"> (1) The damage is caused by fire, explosion, flood, tornado, riot, act of the public enemy, a natural weather event, or accident of any kind; and (2) Restoration begins within one year of the date of the damage.
Construction or alteration of a single-family residential structure, single-family attached, duplex residential structure, accessory dwelling unit, or an accessory structure	<p>Provided the following conditions apply:</p> <ul style="list-style-type: none"> (1) No more than two residential structures are constructed on a legal lot or tract; (2) A proposed improvement is not located in the 100-year flood plain, or the director determines that the proposed improvement will have an insignificant effect on the waterway; and (3) Complies with the requirements of Division 23-2A-3 (Residential Development Regulations).
Residential construction of three to six units	Provided the project complies with the requirements of Division 23-2A-3 (Residential Development Regulations).
Subdivision infrastructure	Provided the infrastructure is constructed under approved construction plans.
Tree removal	Provided that the tree removal complies with Article 23-3C (Urban Forest Protection and Replenishment).
Minor site development or construction that the director determines are similar to the other exemptions described in this section.	

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Article 23-6B: Site Plan Review and Filing Requirements

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23-6B-1010 Application Requirements

- (A) If proposed development requires a site plan, an applicant must file a site plan application for review with the director. The application must include the information and materials named in the most current department publication for the review of site plan applications.
- (B) The director shall review a site plan application under Article 23-2B (Application Review and Fees). During the review process, the director may require the submittal of additional information or revised plans, in which case the applicant shall be notified in writing of any revisions or required additional information.
- (C) Before submitting a site plan application for review, an applicant may request a site plan assessment (also see Section 23-2B-2050 (Development Assessment)) so that a general assessment of a proposed development's compliance with this Title and other applicable policies and standards can be made. The purpose of a site plan assessment is to:
 - (1) Familiarize the Development Services Director, and staff from other City departments, as applicable, with the development proposal;
 - (2) Determine application requirements and familiarize the applicant with the review process and procedures;
 - (3) Identify any potential problems as early in the process as possible; and
 - (4) Identify land use and development policies which may affect the development proposal.
- (D) An application for site plan review has the following two parts:
 - (1) **Planning Element.** A planning element that includes information necessary to ensure that the site plan application complies with goals and policies of the Comprehensive Plan and that the proposed use and general site layout complies with this Title and the applicable development standards for the zone.

- (2) Construction Element.** A construction element that provides detailed information and construction documents regarding building structure, grading, air quality, drainage, water quality, and other aspects of the site design. When reviewing the construction element, the director shall, at a minimum, consider the extent to which the application addresses nuisances to properties and structures adjacent to the development site, pedestrian and vehicular safety both on- and off-site, drainage, and water quality, conflicts with existing and future utilities, street trees, easements, construction and maintenance considerations, and applicable City and State regulations.

23-6B-1020 Notice of Application

- (A) The director shall give notice under Section 23-2C-5010 (Notice of Application) of the filing of an application for site plan review, unless it is exempt from site plan review under Division 23-6A-2 (Exemptions) or as otherwise prescribed in this section.
- (B) No notice is required for small projects described in Section 23-6B-2010 (Small Projects).
- (C) For an application to construct a telecommunication tower described in Section 23-4E-6370 (Telecommunications):
 - (1) The director shall send notice of the application to each registered neighborhood organization in whose boundaries the proposed tower is located and to each property owner within 500 feet of the centerline of the proposed tower. The notice must include the tower location, the name and telephone number of the tower owner, and the telephone number of the director.
 - (2) The applicant shall post a sign in compliance with Section 23-2C-3040 (Notification Signs) at the street right-of-way nearest the proposed tower location. The sign must state that an application to construct a telecommunication tower at that location has been filed and include the name and telephone number of the tower owner.

23-6B-1030 Review and Appeals

- (A) The director shall review and approve or reject the applicant's filing of an update to the site plan under Subsection (B), or deny the site plan if the time period for filing an update under Subsection (B) has expired.
- (B) An applicant may file an update to a site plan no later than one year after the date the application is filed.
- (C) The director shall give written notification of the determination to each interested party not later than the deadline established by the director under Section 23-2B-1040 (Update and Expiration). If the director rejects a site plan, the notice must include the reasons that the site plan does not comply with the requirements of this Title. With permission of the interested party, this notice may be provided electronically.
- (D) If the director rejects a site plan application, the applicant may appeal the director's interpretation or application of a standard of this Title to the Board of Adjustment by filing a written objection with the director

23-6B-1040 Phasing Authorization

- (A) Phasing authorization allows a new development for which site plan review is requested to be constructed in designated development phases. Any applicant submitting a site plan application for review may apply for phasing authorization.
- (B) The director may allow the applicant to defer the submittal of detailed engineering and drainage plans for future phases if the initial site plan application contains sufficient preliminary engineering and drainage information to determine whether the development complies with the requirements of this Title.
- (C) If the date proposed for beginning construction on the final phase is not more than three years after the site development permit application is submitted, the director will review the application to determine if the additional time may be approved. If the date proposed for beginning construction on the final phase is more than three years after the site development permit application is submitted, the Land Use Commission will review the application to determine if the additional time may be approved.
- (D) The review authority will approve a request for phasing authorization if the following requirements are met:
 - (1) The entire development is conducive to phasing, and each proposed phase is a discrete and substantial part of the entire development;
 - (2) Each development phase independently and cumulatively complies with all applicable requirements of this Title and the standards established in applicable City and technical codes; and
 - (3) Each development phase independently satisfies the requirements of Section 23-6B-3010 (Release of Site Plan).

23-6B-1050 Advanced Site Preparation Plan

- (A) Authorization for an advanced site preparation plan allows the applicant to begin site development while an application for a site plan is under review.
- (B) Before applying for advanced site preparation plan authorization, an applicant must receive advanced site preparation plan certification from the director. The director will adopt rules, by administrative rule, for an advanced site preparation plan certification that include standards for certification, the amount and type of training required, and rules for the suspension and revocation of certification, including the provision of graduated sanctions.
- (C) The director shall authorize a request for an advanced site preparation plan if the following requirements are met:
 - (1) The preconstruction conference required under Section 23-2H-1020 (Preconstruction Conference) is not waived;
 - (2) The site plan is located within the boundaries of an urban or suburban watershed;
 - (3) The site plan requires a certificate of compliance or occupancy;
 - (4) The site plan does not require consideration by a Board or Commission at a public hearing;

- (5) The authorization for an advanced site preparation plan does not jeopardize the environment and the public health, safety, and welfare of the City;
 - (6) The applicant has posted a cash fiscal surety for the required erosion and sedimentation controls and revegetation for the development;
 - (7) If the advanced site preparation plan authorization expires or is revoked, the applicant has authorized the City to draw on the cash fiscal security, enter the development site, and restore the development site to its original condition;
 - (8) If required, other government entities have approved the advanced site preparation plan authorization; and
 - (9) Preparation of the site will not negatively affect location and spacing requirements of utility infrastructure.
- (D) An approved advanced site preparation plan authorization will be revoked if a corresponding site plan application is denied or the director determines that the site development does not comply with the requirements of the advanced site preparation plan authorization.
- (E) If an advanced site preparation plan certification is suspended or revoked, the applicant may appeal the decision under Article 23-2I (Appeals).

Division 23-6B-2: Submittal Waivers

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23-6B-2010 Small Projects

- (A) If a project qualifies as a "small project" under this section, the director may wave a submittal requirement that the director determines is not essential to demonstrate compliance with this Title. The director shall maintain a record of submittal requirements that are waived under this section.
- (B) The following are considered small projects:
 - (1) Construction of a building or parking area if the construction:
 - (a) Does not require a variance under Article 23-3D (Water Quality);
 - (b) Does not exceed 5,000 square feet of new or redeveloped impervious cover;
 - (c) The construction site does not exceed 10,000 square feet, including the following areas:
 - (i) Construction, clearing, grading, construction equipment access, driveway reconstruction, landscaping;
 - (ii) Temporary installations including portable buildings, construction trailers, storage areas for building materials, spoil disposal areas, erosion and sedimentation controls or construction entrances; and
 - (iii) Other areas the director determines are part of a construction site.
 - (2) Construction of a storm sewer not more than 30 inches in diameter that is entirely in a public right-of-way or an easement;
 - (3) A development that has existing utilities available to serve a structure (i.e. an existing water stub or cleanout already in use or available) and the Water Utility Director has determined that the size of the service meets City standards;
 - (4) Construction of a left turn lane on a divided street;
 - (5) Construction of street intersection improvements;
 - (6) Widening a public street to provide a deceleration lane if additional right-of-way is not required;
 - (7) Depositing less than two feet of earth fill, if the site is not in a 100-year floodplain or other environmental setback and the fill is not to be deposited within the critical root zone of a protected tree;
 - (8) Construction of a boat dock as an accessory use to a single-family residential use, duplex residential use, or accessory dwelling unit use **no** if shoreline modification, including bulkheads, or dredging of no more than 25 cubic yards is required;

- (9) Construction of a retaining wall, if the wall is less than 100 feet in length and less than eight feet in height, and the back fill does not reclaim a substantial amount of land except land that has eroded because of the failure of an existing retaining wall;
- (10) The replacement of buildings and structures removed because of right-of-way condemnation;
- (11) The construction of a telecommunications tower described in Section 23-4E-6370 (Telecommunications);
- (12) Construction of shoreline access that is less than 50 feet in length and is constructed on slopes with a gradient of less than 35 percent; and
- (13) Minor development that the director determines is similar to that described in Subsections (A)(1)-(12).

Division 23-6B-3: Release

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23-6B-3010 Release of Site Plan

- (A) The director will release a site development permit after:
 - (1) The site plan has been approved;
 - (2) The applicant has posted the required fiscal security with the director;
 - (3) The time period for filing an appeal of the approval has expired, or each interested party has signed and submitted a written waiver of the right to appeal to the director; and
 - (4) If applicable, tenant notification has been provided for the period required under Division 23-3E-3 (Tenant Notification and Relocation).
- (B) The director's release of a site development permit authorizes the applicant to develop the site in compliance with the approved site plan. A building permit issued any time after the site plan's release, but before the site plan expires under Division 23-6C-1 (Expiration), is required to construct a building.
- (C) Release of a site development permit voids any previously approved site plan for property included in the released site plan.

23-6B-3020 Revisions to Released Site Plans

- (A) **Revisions Authorized.** An applicant may file an application to revise a released site plan. Revisions are classified as minor revisions and major revisions.
- (B) **Minor Revisions.** The director may approve a minor revision to a released site plan by issuing a written decision approving the revision, provided that:
 - (1) The applicant files a formal application;
 - (2) The minor revision does not expand the limits of construction or increase the effect on drainage and water quality controls; and
 - (3) The proposed development is limited to:
 - (a) A change needed to address a site or infrastructure condition that was unknown by the applicant at the time the site plan was released;
 - (b) A change needed to reflect as-built site conditions that deviate from the released site plan and do not violate this Title;

- (c) A change of use on the site to a use that is permitted in the base zone, except for an adult entertainment use;
- (d) Site work that is necessary to comply with the Americans with Disabilities Act; or
- (e) Additional site work that complies with the criteria for a site plan exemption under Section 23-6A-2010 (Site Plan Exemptions).

(C) Major Revisions

- (1) The director may approve a major revision to a released site plan in response to a formal application.
- (2) A major revision must satisfy the requirements of this subsection, and construction within the area covered by the revision is subject to regulations in effect on the date the revision application was submitted.
- (3) Except as provided in Subsection (C)(4), a major revision may not:
 - (a) Result in increased impacts on a neighboring property, the public, or a person who will occupy or use the proposed development beyond what was originally approved;
 - (b) Cause a change in the character of the development;
 - (c) Add a new building; or
 - (d) Significantly increase effects to utility infrastructure or traffic on roadways adjacent or external to the development;
- (4) The limitations in Subsection (C)(3) do not apply if the revision is necessary to:
 - (a) Relocate approved building floor area or parking areas out of a condemned right-of-way area; or
 - (b) Comply with the Americans with Disabilities Act.

(D) Effect of Land Use Commission Review. If the Land Use Commission considers a request to revise a Commission approved site plan and imposes additional conditions, the applicant may withdraw the request and develop the property in compliance with the previously approved site plan.

(E) Director's Actions. In addition to approving or denying a request for a minor revision, the director may determine that a request submitted under this subsection must be submitted as a new site plan as a new project, a site plan exemption, or other application authorized under this Title.

23-6B-3030 Extension of a Released Site Plan

- (A) An applicant may request that the director extend a site development permit for a released site plan by filing an extension request with the director before the site development permit expires.
- (B) The director must give notice under Section 23-2C-5010 (Notice of Application) of a request for an extension under this section.

- (C) The director may extend the expiration date of a released site plan one time for a period of one year if:
 - (1) The director determines that:
 - (a) The site plan substantially complies with the requirements that apply to a new application for site plan approval;
 - (b) The applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed;
 - (c) The applicant constructed at least one structure shown on the original site plan that is suitable for permanent occupancy; or
 - (d) The applicant has constructed a significant portion of the infrastructure required for development of the original site plan; and
 - (2) The director determines that if:
 - (a) A traffic study was submitted with the application for site plan approval:
 - (i) The assumptions and conclusions of the traffic study are valid; or
 - (ii) If the assumptions and conclusions are not valid, the applicant has submitted an addendum to the traffic study that demonstrates that traffic effects as identified by staff will be satisfactorily mitigated; or
 - (b) A traffic study was not submitted with the application for site plan approval, the applicant demonstrates that traffic effects as identified by staff will be satisfactorily adequately mitigated.
- (D) The Land Use Commission shall hold a public hearing on a request to extend the expiration date of a released site plan before it may consider granting subsequent extensions to previously approved site plans following the guidelines that the director used to grant the first one-year extension. The director shall give notice under Article 23-2C (Notice) of the public hearing.
- (E) If a site plan is associated with a development that has expired as defined under Division 23-2K-2 (Vested Rights Determinations), the director may extend the expiration date of the site plan one time for a period of one year consistent with the following requirements:
 - (1) If the site plan substantially complies with the requirements that would apply to a new application, the director may grant an extension if the criteria in Subsection (C) are satisfied;
 - (2) If the site plan does not substantially comply with the requirements that would apply to a new application, the Development Services Director may grant an extension if there is good cause for the requested extension, such as financial hardship or circumstances beyond the applicant's control, and:
 - (a) The applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed; and
 - (b) The requirements for a traffic study under Subsection (C)(2) have been met; and

- (c) One of the following requirements is met:
 - (i) The applicant constructed at least one structure shown on the original site plan that is suitable for permanent occupancy; or
 - (ii) The applicant has constructed a significant portion of the infrastructure required for development of the original site plan.

23-6B-3040 Construction Management and Certification

Construction management and the issuance of certificates of compliance and certificates of occupancy are governed by Article 23-2H (Construction Management and Certificates).

Article 23-6C: Expiration

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23-6C-1010 Expiration of Site Plan

- (A) A site plan expires three years after the date of its approval, except as follows:
- (1) Building permits have been issued to construct all the buildings shown on the site plan, and those building permits are in effect until the work is completed and certificates of occupancy have been issued;
 - (2) Building permits are not required to finish development of the site plan, provided any required site work is begun and diligently pursued to completion, and a certificate of compliance or certificate of occupancy is issued under Division 23-2H-4 (Certificates of Compliance and Occupancy); or
 - (3) A request for an extension of a released site plan is granted under Section 23-6B-3030 (Extension of Released Site Plan).

23-6C-1020 Expiration of Site Plan Phase

- (A) Any phase of a phased site plan expires on the expiration date determined under Section 23-6B-1040 (Phasing Authorization) unless:
- (1) Building permits required to construct all the buildings shown in the phase are issued, and those building permits are in effect until the work is completed and certificates of occupancy are issued; or
 - (2) If building permits are not required to finish development of the phase, any required site work on the phase is begun and diligently pursued to completion, and a certificate of compliance or certificate of occupancy is issued under Division 23-2H-4 (Certificates of Compliance and Occupancy).
- (B) If the first phase of a phased site plan expires, the entire site plan expires.

23-6C-1030 Effect of Site Plan Expiration

If an approved site plan required under this chapter expires, the director must not issue a building permit, certificate of occupancy, or certificate of compliance for the use or development of the land.

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Building, Demolition, and Relocation Permits; Special Requirement Permits For Historic Structures



23-7: Building, Demolition, and Relocation Permits; Special Requirements for Historic Structures

General to Chapter

PC Motion #100

Recommend approval of Chapter 23-5, 23-7, 23-8, 23-9, 23-10, 23-12, and 23-13 with amendments previously approved

In Article 23-13: Definitions and Measurements, revise the definition of Microbrewery from 15,000 barrels to 5,000 barrels, and review Draft 3 for any terms that have been left undefined, using motions from Planning Commission CodeNEXT Draft 3 Deliberation Spreadsheet as guidance.

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Article 23-7A: General Provisions

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23-7A-1010 Jurisdiction

- (A) This chapter applies to property in the city's zoning jurisdiction.
- (B) The provisions of this chapter relating to plumbing, electric, and mechanical permits apply to structures connected to the City's electric and water and wastewater utilities.

23-7A-1020 Historic Properties and Buildings 45 or More Years Old

- (A) The building official must notify the historic preservation officer before issuing a building, demolition, or relocation permit for a building 45 or more years old.
- (B) The building official may not issue a building, demolition, or relocation permit for a property described in Subsection (D) unless all applicable requirements of Division 23-7D have been satisfied.

23-7A-1030 Permit Inspections

- (A) A permit holder must obtain any inspection required by Chapter 23-11 (Technical Codes).
- (B) Additional inspections may be required if the building official determines that one or more hazardous conditions exist. An inspection under this subsection must be performed by an inspector approved by the building official.
- (C) The building official shall ensure that an inspection is performed as required by Chapter 23-11 (Technical Codes).

23-7A-1040 Definitions

- (A) This section defines words and phrases that are used primarily in this chapter. For words and phrases used generally throughout this Title, see Division 23-13A-1 (Terms and Measurements).

ARCHITECTURAL FEATURE. An architectural element that, alone or as part of a pattern, reflects the style, design, or general arrangement of the exterior of a building or structure, including but not limited to the kind, color, and texture of building materials,

and style and type of windows, doors, siding, trim, eaves, cornices, roof ornamentation and materials, , lights, porches, awnings, and signs.

BUILDING. For purposes of the historic preservation sections of the Code, a construction primarily for human habitation, activities, or shelter. The terms buildings, structures, sites, and objects, may all fall under the more general term of historic properties.

CERTIFICATE OF APPROPRIATENESS. A signed and dated document evidencing approval by the Historic Landmark Commission or Historic Preservation Office for work proposed by an owner or applicant to the exterior or site of a designated or pending historic landmark or a contributing property **or new construction within** a designated or pending local historic district. A Certificate of Appropriateness may relate to exterior alterations, additions, demolition, or relocation.

CONTRIBUTING PROPERTY. A building, structure, site, feature, or object within a local or National Register historic district that reflects the historic character of the district, was built during the district's period of significance, and retains sufficient integrity to convey its historic appearance. Contributing properties are designated by the ordinance creating the local historic district or the National Register historic district nomination. In the absence of a determination of whether a property is contributing, the Historic Preservation Officer may make that determination. The Historic Preservation Officer may also change the status of whether a property is contributing to the historic district if the appearance of the property has changed over time or the property is now 50 years of age if, at the time of the original designation, the property did not qualify as contributing because of its age. **Alterations completed within the district's period of significance may achieve historic significance in their own right.**

DEMOLITION. **For purposes of the historic preservation sections of this article, demolition is an** act or process that totally or partially removes any exterior architectural or site features of a **building 45 or more years old, a** designated or pending historic landmark, a contributing property within a designated or pending local historic district, a property individually listed in the National Register of Historic Places, or a contributing property within a National Register historic district.

DEMOLITION BY NEGLECT. Lack of maintenance resulting in deterioration that threatens the preservation of any designated or pending historic landmark or contributing property in a designated or pending local historic district (see Section 23-7E-1020 Duty to Preserve and Repair).

HISTORIC CONTEXT. The information about a historic property or historic district based on a shared theme, development history, specific time period, and/or geographical area.

HISTORIC DISTRICT OVERLAY ZONE. An area approved by the Council that possesses particular architectural, cultural, and/or historic importance or significance. A historic district overlay zone must consist, at minimum, of one block-face, and is typically referred to as a local historic district. Properties in a historic district overlay zone (local historic district) are zoned HD.

INTEGRITY. The ability of a property to convey its significance. Integrity may be impaired by changes to the location, setting, design, materials, workmanship, association, and feeling of a property.

HISTORIC LANDMARK. A property designated by the Council as possessing particular architectural, cultural, and/or historic importance or significance. Historic landmarks are zoned H.

LOCAL HISTORIC DISTRICT. The common term used to refer to a historic district (HD) overlay zone.

LOADED HEIGHT. The height of a building or structure, measured from the ground, when it is loaded on a trailer for moving.

LOADED WIDTH. The width of a building or structure, measured from the ground, when it is loaded on a trailer for moving.

NATIONAL REGISTER HISTORIC DISTRICT. An area designated in the Federal Register under the National Historic Preservation Act of 1966, as amended, for which maps depicting the area are available for inspection by the public at the Planning and Zoning Department.

ORDINARY REPAIR OR MAINTENANCE. Any work that does not constitute an exterior change in design, material, or outward appearance, and includes in-kind replacement or repair with the same material as the original.

PERIOD OF SIGNIFICANCE. The length of time when a property or district was associated with important events, activities, or persons, or attained the characteristics which qualify it for designation. The period of significance begins with a date when significant activities or events began that give the property or district its historic significance, often the date of construction for a property or the date of subdivision for a district.

ROUTINE REPAIR OR MAINTENANCE. Acts of ordinary maintenance that do not include a change in the design, material, form, or outer appearance of a historic landmark, contributing building or structure, or site thereof, including methods of stabilizing and preventing further decay and may incorporate in-kind replacement or refurbishment of materials on a structure.

SITE. For the purposes of the historic preservation sections of the Code, the location of a significant event; a prehistoric or historic occupation or activity; or a structure or building, whether standing, ruined, or vanished; where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure. The site of a historic landmark will generally include all of the land necessary to convey the context and history of the landmark, generally the tax parcel(s) that are zoned historic. The terms buildings, structures, sites, and objects may all fall under the more general term of historic properties.

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Article 23-7B: Building Demolition and Permits

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23-7B-1010 Permit Requirements

- (A) Unless exempted by another provision of the City Code, a person shall obtain the appropriate permit from the building official before performing the following activities:
 - (1) An activity regulated by Chapter 23-11 (Technical Codes);
 - (2) Constructing a sidewalk, curb, gutter, or driveway approach on property under a person's control or in public right-of-way adjoining property under a person's control;
 - (3) Altering or repairing a sidewalk on property under a person's control if:
 - (a) The property is required to meet Visitability Provisions; and
 - (b) The sidewalk is part of the access pathway;
 - (4) Erecting, moving, or structurally altering or repairing an outdoor sign;
 - (5) Repairing a sign, if:
 - (a) Electrical work is involved with the repair; or
 - (b) The work involves any modifications to the sign other than repair;
 - (6) Constructing or structurally altering a pier or other structure in or along the shorelines of:
 - (a) Lake Austin below an elevation of 504.9 feet above mean sea level;
 - (b) Lady Bird Lake below an elevation of 435.0 feet above mean sea level; or
 - (c) Lake Walter E. Long below an elevation of 554.5 feet above mean sea level;
 - (7) Constructing a bulkhead or retaining wall in or along the shoreline of Lake Austin, Lady Bird Lake, or Lake Walter E. Long; or
 - (8) Causing or permitting the activities described in this section to occur.
- (B) A demolition permit is not required to demolish all or part of an interior wall, floor, or ceiling.
- (C) A building permit is required to relocate a building to a new site if the new site is within the City.

23-7B-1020 Existing Buildings

Work performed on all existing buildings must comply with the Existing Building Code, Chapter 23-11 (Technical Codes) and, when applicable, Article 23-7D (Special Requirements for Historic Properties and Buildings 45 or More Years Old).

23-7B-1030 Temporary Building Permit

- (A) The building official may issue a temporary building permit for a certain activity before the plans and specifications for the entire project have been submitted or approved if:
 - (1) the applicant files information and detailed statements describing the activity to be performed; and
 - (2) the building official determines that the activity complies with this title.
- (B) Construction that occurs under a temporary building permit occurs at the permittee's risk. A temporary building permit does not guarantee that a permit for the entire building or structure will be approved. A permittee does not acquire vested rights under a temporary permit issued under this section.
- (C) The building official shall provide a permittee with written documentation stating that the permittee does not acquire vested rights under a temporary building permit. Failure to comply with this requirement does not allow the permittee to acquire vested rights.

23-7B-1040 Licensed Contractor Requirements

Unless exempted by state law or another provision of City Code, a contractor must be licensed to perform an activity that requires a:

- (1) plumbing, electrical, solar, or mechanical permit; or
- (2) sidewalk, curb, gutter, or driveway approach permit.

23-7B-1050 Asbestos Survey Requirements

A permit for any development or demolition activity is subject to the applicable provisions of the Texas Department of State Health Services Asbestos Program.

23-7B-1060 Construction and Demolition Materials Diversion Requirements

- (A) Each applicant for a building permit or demolition permit for activities described in Subsection (B) must comply with this section and Chapter 15-6, Article 9 (Construction and Demolition Material Diversion Program) before a building or demolition permit is issued.
- (B) Construction and demolition materials diversion is required for:
 - (1) A construction project that exceeds 5,000 square feet of new, added, or remodeled floor area; and

- (2) Beginning October 1, 2019, a commercial or multifamily project that requires a demolition permit.
- (C) Construction and demolition materials diversion is not required for the following activities:
 - (1) Construction that requires only mechanical, electrical, or plumbing permit; or
 - (2) Work that does not require a building or demolition permit.

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23-7B-2010 Permit Application

A person must submit an application for a building permit on a form prescribed by the building official under Division 23-2B-1 (Application Requirements). The application must include the information required in Division 23-11B-1 (Building Code) and the Building Criteria Manual.

23-7B-2020 Departmental Review

The building official shall submit each application for a building permit to the appropriate city departments for review. Each department shall determine whether an application complies with the regulations within its administrative authority, then provide its determination to the building official.

23-7B-2030 Review Periods

The building official shall approve or disapprove an application by the deadline established for the specific application under Division 23-2B-2 (Review Procedures).

23-7B-2040 Requirements Regarding Utility Service

- (A) When an applicant files an application for a building permit, the applicant must submit a written verification, in a manner prescribed by the building official and applicable department, that utilities for the proposed development are suitable and sufficient for the proposed project.
- (B) When an applicant files an application for a demolition permit, the applicant must submit a written verification from Austin Energy and Austin Water that a request to remove the utilities has been filed.

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Division 23-7B-3: Demolition Permit Expiration and Extension

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23-7B-3010 Expiration and Extension of Demolition Permit

- (A) Except as provided in Subsection (C), a demolition permit expires if work authorized by the permit does not begin within two years from the date the permit is issued.
- (B) The building official may grant a single one-year extension of a demolition permit if the permittee requests, in writing, an extension before the permit expires.
- (C) If a demolition permit expires after work has begun, a subsequent demolition permit that is issued for the same structure expires when the work is not complete within six months or a lesser time if required by the building official based on public health and safety.
- (D) An active demolition permit does not prevent a site plan from expiring under Division 23-6C-1 (Expiration).

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Article 23-7C: Relocation Permits

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23-7C-1010 Permit Requirements

- (A) Except as provided in Subsection (B), a person must obtain a relocation permit to move a building regulated by this Title from one site to another or along a public-right-of-way; and to move a building on the same site.
- (B) A relocation permit is not required to move a building that:
 - (1) Is specifically designed and constructed to be portable;
 - (2) Has a loaded height of 14 feet or less; and
 - (3) Has a loaded width of 14 feet or less.

23-7C-1020 Permit Application

A person must submit an application on a form prescribed by the building official under Division 23-2B-1 (Application Requirements).

23-7C-1030 Departmental Review

- (A) The building official shall submit each application for a relocation permit to the appropriate city departments for review. The departments shall provide the building official with a recommendation on issuance of the permit.
- (B) An applicant may amend and resubmit the application if it is disapproved.

23-7C-1040 Requirements Regarding Utility Service

When an applicant files an application for a relocation permit, the applicant must submit a written verification from Austin Energy and Austin Water that a request to remove the utilities has been filed.

23-7C-1050 Permit Issuance

The building official shall issue a relocation permit after:

- (1) Finding that the proposed relocation complies with all applicable regulations;
- (2) The applicant has paid all required fees and deposits; and
- (3) The applicant has obtained all required building permits.

23-7C-1060 Transferability

A permittee may not transfer or attempt to transfer a permit or right granted under this division unless the new moving contractor meets the qualifications of Division 23-7C-1070 (Moving Contractor Requirements).

Division 23-7C-2: Relocation Requirements

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23-7C-2010 Moving Contractor Requirements

- (A) A building may be moved only by a moving contractor who is bonded and insured in accordance with City rules.
- (B) The building official may deny a permit application submitted by a mover who knowingly and repeatedly violates the provisions of this Title.

23-7C-2020 Removing Trees During Relocation

- (A) A permittee shall comply with all applicable provisions of Division 23-3C (Urban Forest Protection and Replenishment).
- (B) Except as provided in Subsections (C) and (D), during relocation, a permittee may not remove, or impact in a way that constitutes removal, a tree or shrub located on or over:
 - (1) A public right-of-way or other City-owned or managed property; or
 - (2) Private property.
- (C) The city arborist may authorize, in writing, a permittee to remove or cause an impact that constitutes removal of a tree or shrub:
 - (1) located on or over public right-of-way or other City-owned or managed property; or
 - (2) if the tree is a protected tree subject to Article 23-3C (Urban Forest Protection and Replenishment), located on or over private property and the owner or person in control of the private property gives written consent.
- (D) The owner or person in control of private property may authorize, in writing, a permittee to remove or cause an impact that constitutes removal of a tree or shrub located on or over the property, provided the protected tree requirements in Article 23-3C (Urban Forest Protection and Replenishment) do not apply.

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Article 23-7D: Special Requirements for Historic Properties and Buildings 45 or More Years Old

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Division 23-7D-1: Overview

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23-7D-1010 Purpose

The purpose of this article is to identify and protect buildings, sites, and structures of cultural and architectural significance to the community through;

- (1) Review of proposed changes to already identified historic properties;
- (2) Review of requests to demolish or relocate already identified historic properties;
- (3) Review of other properties to identify assets of cultural and architectural value to the community; and
- (4) Protecting property rights through reasonable regulations and procedures

23-7D-1020 Applicability

- (A) This article applies to:
- (1) A building 45 or more years old;
 - (2) A designated or pending historic landmark;
 - (3) Contributing properties and new construction within designated or pending local historic districts;
 - (4) Contributing properties and new construction within National Register Historic Districts;
 - (5) A property individually listed in the National Register of Historic Places;
 - (6) A National Historic Landmark;
 - (7) A Recorded Texas Historic Landmark; and
 - (8) A State Antiquities Landmark.

23-7D-1030 Review Authority

Authority and responsibility for implementing this article is delegated to the director of Planning and Zoning, hereafter referred to as “the director.”

23-7D-1040 Types of and Time Limits for Review

The time limits for Historic Landmark Commission action in this table are based on the indicated applicable code sections. If a conflict exists between this table and the indicated code sections, the indicated code sections prevail. Unless otherwise indicated, the time limit for Historic Landmark Commission action begins the day after the first Historic Landmark Commission meeting at which the application is posted on the agenda.

Table 23-7D-1040 (A): Types of and Time Limits for Review				
Property Type	Historic Review Type	Applicable Sections in Division 23-7D (1) & (2)	Application Type	Time Limit for Commission Action
No Designation				
45 or more years old	Evaluation for eligibility as historic landmark	23-7D-1030, 23-7D-3010, 23-7D-3020	Partial Demolition, Demolition, Relocation	75 days
Individual Designation				
Historic Landmark (includes pending)	Certificate of Appropriateness Required	23-7D-1030, 23-7D-2010, 23-7D-2030, 23-7D-4010	Building	75 days
Historic Landmark (includes pending)	Certificate of Appropriateness Required	23-7D-1030, 23-7D-2010, 23-7D-2030, 23-7D-4010	Demolition, Relocation	180 days
Listed in the National Register of Historic Places	Advisory review, evaluation for eligibility as a historic landmark	23-7D-1030, 23-7D-2020, 23-7D-2040	Building	75 days
National Historic Landmark				
Recorded Texas Historic Landmark				
State Antiquities Landmark				
Listed in the National Register of Historic Places	Advisory review, evaluation for eligibility as a historic landmark	23-7D-1030, 23-7D-2020, 23-7D-2040	Demolition, Relocation	180 days
National Historic Landmark				
Recorded Texas Historic Landmark				
State Antiquities Landmark				

Table 23-7D-1040 (A): Types of and Time Limits for Review

Property Type	Historic Review Type	Applicable Sections in Division 23-7D (1) & (2)	Application Type	Time Limit for Commission Action
Local Historic District (includes pending)				
Contributing Property	Certificate of Appropriateness Required	23-7D-1030, 23-7D-2010, 23-7D-2030, 23-7D-4010	Building	75 days
Contributing Property	Certificate of Appropriateness Required	23-7D-1030, 23-7D-2010, 23-7D-2030, 23-7D-4010	Demolition, Relocation	180 days
Non-contributing Property	<i>See No Designation: Buildings 45 or More Years Old</i>			
New Construction	Certificate of Appropriateness Required	23-7D-1030, 23-7D-2010, 23-7D-2030, 23-7D-4010	Building	75 days
National Register Historic District				
Contributing Property	Advisory review; evaluation for eligibility as a historic landmark	23-7D-1030, 23-7D-2020, 23-7D-2030, 23-7D-2040	Building	75 days
Contributing Property	Advisory review; evaluation for eligibility as a historic landmark	23-7D-1030, 23-7D-2020, 23-7D-2030, 23-7D-2040	Demolition, Relocation	180 days
Non-contributing Property	<i>See No Designation: Buildings 45 or More Years Old</i>			
New Construction	Advisory review	23-7D-1030, 23-7D-2020, 23-7D-2040	Building	75 days

23-7D-1050 Tolling of Time Limits

For time limits for review and action established under this article, a postponement requested or agreed to by the owner or the owner's agent tolls the running of the time limit by the Historic Landmark Commission. The time is tolled from the date of the request or the date the owner or the owner's agent agrees to postpone the case until the day of the Historic Landmark Commission meeting to which the case has been postponed.

23-7D-1060 Process for Historic Review

- (A) When the building official receives an application requesting a building permit, relocation permit, or demolition permit for a property to which this section applies, the building official shall immediately notify the historic preservation officer
- (B) When the historic preservation officer notifies the building official that the application will be placed on a Historic Landmark Commission's agenda, the building official shall post a sign on the site and notify property owners, residents, and registered parties as required by Division 23-2C-5 (Notice of Application and Administrative Decisions).

- (C) The historic preservation officer may administratively approve an application for a Certificate of Appropriateness or permit under Section 23-7D-2015 (Administrative Approval of Certificates of Appropriateness), Section 23-7D-2025 (Administrative Approval Under Advisory Review), or Section 23-7D-3015 (Administrative Approval for Buildings Without Historic Designation).
- (D) Unless an application has been administratively approved, the Historic Landmark Commission shall hold a public hearing on an application within 60 days of the historic preservation officer receiving a complete application.
- (E) Unless the building official determines that action is necessary to protect public safety, the building official shall not issue a building, relocation, or demolition permit for a property subject to this article until the earliest of:
 - (1) The date the historic preservation officer administratively approves an application;
 - (2) The date the Historic Landmark Commission decides not to initiate a historic designation case regarding the property;
 - (3) The date the Historic Landmark Commission approves an application for a Certificate of Appropriateness or provides comments on an application;
 - (4) The expiration of 75 days after the date of the first Historic Landmark Commission meeting at which the application is posted on the agenda; or
 - (5) The expiration of 180 days after receipt of a complete application for a contributing structure within a National Register Historic District or a pending **local historic** district.
- (F) If the Historic Landmark Commission decides to initiate a historic zoning case under Section 23-4B-3030 (Zoning Map Amendment Initiation), the structure is subject to Section 23-7D-4010 (Pending Historic Designations).

Division 23-7D-2: Properties with Historic Designation

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23-7D-2010 Certificates of Appropriateness

- (A) This section applies to a building, structure, or site that is:
 - (1) A historic landmark;
 - (2) Pending designation as a historic landmark under Section 23-7D-4010 (Pending Historic Designations);
 - (3) A contributing property within a local historic district;
 - (4) A contributing property within a pending local historic district under Section 23-7D-4010 (Pending Historic Designations);
 - (5) **New construction on a historic landmark property or within a local historic district; or**
 - (6) **New construction on a pending historic landmark property or within a pending local historic district under Section 23-7D-4010 (Pending Historic Designations).**
- (B) A Certificate of Appropriateness is required for:
 - (1) Full or partial demolition **of any exterior feature;**
 - (2) Relocation;
 - (3) All exterior and site work regardless of whether a building or demolition permit is required, including but not limited to the replacement of doors, windows, siding, and roof materials, unless the work is ordinary repair and maintenance as defined in Article 23-13A (Definitions and Measurements); **and**
 - (4) **New construction.**
- (C) A criminal penalty for a violation of this section applies only to a person who has actual or constructive notice that:
 - (1) The building is a historic landmark or contributing property within a local historic district; or
 - (2) A designation is pending under Section 23-7D-4010 (Pending Historic Designations).

23-7D-2020 Administrative Approval of Certificates of Appropriateness

- (A) For a property that is a designated or pending historic landmark, the historic preservation officer may administratively approve an application under 23-7D-2010 (Certificates of Appropriateness) that is requested for:
 - (1) An accurate restoration or reconstruction of a documented missing historic architectural element of the structure or site;
 - (2) A change to the exterior paint color;
 - (3) Work that does not visually affect the historic character of the structure or site from the principal street frontage of the property, complies with all applicable design standards, and is limited to the construction of:
 - (a) A one-story rear outbuilding;
 - (b) A pool, deck, fence, back porch enclosure, or other minor feature; or
 - (4) A sign that conforms to any applicable sign design standards for the property.
- (B) For a contributing property located within a local historic district, the historic preservation officer may administratively approve an application under 23-7D-2010 (Certificates of Appropriateness) that is requested for:
 - (1) An accurate restoration or reconstruction of a documented missing historic architectural element of the structure or site;
 - (2) Work that does not visually affect the historic character of the property or site from the principal street frontage of the property, complies with all applicable design standards for the district, and is limited to the construction of:
 - (a) A ground-floor, one-story rear addition;
 - (b) A one-story rear outbuilding;
 - (c) A pool, deck, fence, back porch enclosure, or other minor feature;
 - (d) A rear addition of up to two stories to a two-story building;
 - (e) A one-story accessory dwelling unit located behind the principal structure;
 - (f) A sign that conforms to applicable sign design standards; or
 - (3) The demolition of an outbuilding such as a carport, detached garage, shed, greenhouse, or other outbuilding determined by the historic preservation officer not to possess historic or architectural significance, either as a standalone building or structure, or as part of a complex of buildings or structures on the site.

23-7D-2030 Action on a Certificate of Appropriateness

- (A) This section applies to an application for a Certificate of Appropriateness under Section 23- 7D-2010 (Certificates of Appropriateness).
- (B) If the Historic Landmark Commission determines that the proposed work will not adversely affect the designated or pending historic landmark (H) or contributing property within a designated or pending local historic district (HD), it shall approve the application for a Certificate of Appropriateness.

- (C) In making a determination under this section for a contributing property in a local historic district (HD), the Historic Landmark Commission shall first apply any applicable historic district design standards approved under Subsection 23-4D-9090 (G) (HD Overlay and Preservation Plan), followed by the Secretary of the Interior's Standards for Rehabilitation, 36 Code of Federal Regulations Section 67.7(b).
- (D) In making a determination under this section for historic landmarks for which no approved district design standards are applicable, the Historic Landmark Commission shall apply the Secretary of the Interior's Standards for Rehabilitation, 36 Code of Federal Regulations Section 67.7(b).
- (E) If a change is proposed to an approved or pending application for a Certificate of Appropriateness, the applicant may amend the application.
- (F) A plan approved by the Historic Landmark Commission or historic preservation officer may not be changed unless the change is approved by the Historic Landmark Commission or historic preservation officer and the applicant receives a Certificate of Appropriateness for the change.
- (G) The historic preservation officer may administratively approve an amended plan if:
 - (1) The proposed change does not have a substantial impact on the historic character of the building; or
 - (2) The change is a minor difference from the Certificate of Appropriateness previously approved by the Historic Landmark Commission or the historic preservation officer.
- (H) An applicant that fails to comply with a plan approved by the Historic Landmark Commission or the historic preservation officer must submit a new application for a Certificate of Appropriateness for any change to the approved plans.
- (I) If the Historic Landmark Commission approves the application for a Certificate of Appropriateness, the historic preservation officer shall provide the certificate to the applicant and the building official on or before the fifth day after the action.
- (J) If the Historic Landmark Commission denies the application for a Certificate of Appropriateness, the historic preservation officer shall notify the applicant of the denial on or before the fifth day after the action.

23-7D-2040 Advisory Review for Properties with Historic Designation

- (A) This section applies to a building, structure, or site that is:
 - (1) A contributing property within a National Register historic district;
 - (2) New construction within a National Register historic district;
 - (3) A property individually listed in the National Register of Historic Places;
 - (4) A National Historic Landmark;
 - (5) A recorded Texas Historic Landmark; or
 - (6) A State Antiquities Landmark.
- (B) The Historic Landmark Commission provides comments for all exterior and site work for a property subject to this section regardless of whether a building or demolition permit is required, including but not limited to the replacement of doors, windows, siding, and roof

materials, unless administratively released under Subsection (C) or the work is ordinary repair and maintenance as defined in Article 23-13A (Definitions and Measurements).

23-7D-2050 **Administrative Release under Advisory Review**

- (A) The historic preservation officer may administratively release an application for a project under 23-7D-2020 (Advisory Review for Properties with Historic Designation) that consists of:
 - (1) Minor repair or maintenance work that does not involve changes to architectural and historical value, style, or general design;
 - (2) An accurate restoration or reconstruction of a documented missing historic architectural element of the structure or site;
 - (3) Work that does not visually affect the historic character of the structure or site from the principal street frontage of the property, complies with all applicable design guidelines for the district, and is limited to the construction of:
 - (a) A ground-floor, one-story rear addition;
 - (b) A one-story rear outbuilding, including an accessory dwelling unit;
 - (c) A rear addition up to two stories to a two-story building or structure;
 - (d) An accessory dwelling unit up to two stories behind a two-story house; and
 - (e) A pool, deck, fence, back porch enclosure, or other minor feature; or
 - (4) The demolition of an outbuilding such as a carport, detached garage, shed, greenhouse, or other outbuilding determined by the historic preservation officer not to possess historic or architectural significance, either as a standalone building or structure, or as part of a complex of buildings or structures on the site.

23-7D-2060 **Action on an Application for a Building, Demolition, or Relocation Permit**

- (A) This section applies to a building, demolition, or relocation application under Section 23-7D-2020 (Advisory Review for Properties with Historic Designation).
- (B) The Historic Landmark Commission may initiate a historic zoning case under Section 23-4B-3030 (Zone Map Initiation) if it determines that the property for which an application has been submitted meets the requirements in Subsection 23-4D-9090(D) (Designation Criteria for H and HD Overlay Zones).
- (C) If the Historic Landmark Commission determines that the property does not meet the requirements in Subsection 23-4D-9090(D) (Designation Criteria for H and HD Overlay Zones), it shall:
 - (1) For an application for a building permit on a building with state or national historic designation described in Section 23-7D-2020 (Advisory Review for Properties with Historic Designation), provide any applicable comments to the applicant to encourage a higher degree of compatibility with the historic character of the property or the district and release the application; or
 - (2) For an application for a demolition or relocation permit, release the application.

- (D) The historic preservation officer shall notify the applicant and the building official within two days of an action on an application by the Historic Landmark Commission.
- (E) The historic preservation officer shall provide the building official with any documents necessary to complete processing of the application for a building, demolition, or relocation permit by the latest of:
 - (1) The fifth day from the date the Historic Landmark Commission acts on an application, if the action is not subject to appeal under Subsection 23-7D-5010 (Appeal);
 - (2) The end of the appeal period, if the action is subject to appeal under Subsection 23-7D-5010 (Appeal); or
 - (3) The date that all conditions required by the Historic Landmark Commission have been satisfied.

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Division 23-7D-3: Properties without Historic Designation

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23-7D-3010 Review for Buildings 45 or More Years Old without Historic Designation

- (A) This section applies to a building, structure, or site that is:
 - (1) 45 or more years old; and
 - (2) Does not have historic designation of any kind.
- (B) For a building, structure, or site that is subject to this section, the Historic Landmark Commission may review the following:
 - (1) A demolition application, including an application for partial demolition; and
 - (2) A relocation application.
- (C) When the Historic Landmark Commission reviews an application under this section, it shall evaluate the property for possible designation as a historic landmark under Subsection 23-4D-9090(D) (Designation Criteria for H and HD Overlay Zones) and may initiate a historic zoning case under Section 23-4B-3030 (Zone Map Amendment Initiation).

23-7D-3020 Administrative Approval For Buildings Without Historic Designation

- (A) The historic preservation officer may administratively approve an application under Section 23-7D-3010 (Review for Buildings 45 or More Years Old without Historic Designation) if the building, structure, or site:
 - (1) Lacks historic integrity;
 - (2) Does not meet the criteria for designation as a historic landmark under Subsection 23-4D-9090 (D) (Designation Criteria for H and HD Overlay Zones); or
 - (3) Is an outbuilding such as a carport, detached garage, shed, greenhouse, or other similar structure the historic preservation officer determines does not possess historic or architectural significance, either as a standalone building or structure, or as part of a complex of buildings or structures on the site.

23-7D-3030 Action on an Application for a Demolition or Relocation Permit

- (A) This section applies to a demolition or relocation application subject to Subsection 23-7D-3010 (Review of Buildings 45 or More Years Old without Historic Designation).

- (B) The Historic Landmark Commission may initiate a historic zoning case if it determines that the property meets the requirements for a historic landmark under [Subsection 23-4D-9090\(D\) \(Designation Criteria for H and HD Overlay Zones\)](#).
- (C) If the Historic Landmark Commission determines that the property does not meet the requirements for a historic landmark under Subsection 23-4D-9090(D) (Designation Criteria for H and HD Overlay Zones), it shall release the application.
- (D) The historic preservation officer shall notify the applicant and the building official within two days of an action on an application by the Historic Landmark Commission.
- (E) The historic preservation officer shall provide the building official with any documents necessary to complete processing of the application for a building, demolition, or relocation permit by the latest of:
 - (1) The fifth day from the date the Historic Landmark Commission acts on an application, if the action is not subject to appeal under Subsection 23-7D-5010 (Appeal); or
 - (2) The end of the appeal period, if the action is subject to appeal under Subsection 23-7D-5010 (Appeal).

Division 23-7D-4: Pending Historic Designations

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23-7D-4010 Pending Historic Designations

- (A) A building, structure, or site is pending when the earliest of the following events occurs:
 - (1) Two members of the Historic Landmark Commission request in writing to place the building, structure, or site on the Historic Landmark Commission's agenda to consider its eligibility for landmark designation as defined in Subsection 23-4D-9090(D) (Designation Criteria for H and HD Overlay Zones);
 - (2) A Historic Landmark Commission agenda is posted that includes the Commission's consideration of whether the building, structure, or site is eligible for designation as a historic landmark under Subsection 23-4D-9090(D) (Designation Criteria for H and HD Overlay Zones); or
 - (3) A Historic Landmark Commission agenda is posted that includes the Historic Landmark Commission's consideration of an application for a demolition, relocation, or building permit concerning the building, structure, or site.
- (B) A local historic district is pending when a Historic Landmark Commission agenda is posted that includes the Commission's consideration of the district's eligibility for designation under Subsection 23-4D-9090(D) (Designation Criteria for H and HD Overlay Zones).
- (C) The building official may initiate enforcement action under Article 23-2J (Enforcement) to suspend or revoke a building, demolition, or relocation permit if it is issued after a building, structure, or site is pending designation.
- (D) A written request under Subsection (A)(1) must address:
 - (1) Whether the building, structure, or site is eligible for historic zoning under Subsection 23-4D-9090(D) (Designation Criteria for H and HD Overlay Zones);
 - (2) Whether permits intended for structural stabilization or retention of integrity, as defined by Subsection 23-4D-9090(D) (Designation Criteria for H and HD Overlay Zones), may be issued to maintain the building, structure, or site's eligibility during historic zoning proceedings; and
 - (3) Whether the building, structure, or site's eligibility for historic zoning would be compromised by the issuance of any proposed building, demolition, or relocation permit.
- (E) A designation is no longer pending when:
 - (1) The Historic Landmark Commission issues a Certificate of Appropriateness for the work proposed in the application
 - (2) The Historic Landmark Commission approves the demolition, relocation, or building permit concerning the building, structure, or site;

- (3) The Historic Landmark Commission does not recommend a historic zoning designation for the building, structure, site, or district on or before the 75th day after the date of the first Historic Landmark Commission meeting at which the application is included as an action item on the agenda; or
 - (4) The city council makes a final decision on a historic designation for the building, structure, site, or district.
- (F) Within seven calendar days from the request or vote described in Subsection (A), the historic preservation officer shall provide the building official with a copy of each written request and agenda.

Division 23-7D-5: Appeal

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23-7D-3010 Appeal

- (A) An owner or applicant may appeal an action of the Historic Landmark Commission under this article to the Land Use Commission.
- (B) An interested party may appeal a Historic Landmark Commission decision to allow the demolition or relocation of a designated historic landmark or a contributing property in a designated local historic district to the Land Use Commission.
- (C) The Land Use Commission's decision on an appeal may be appealed to the city council.
- (D) An appeal under this section must be in writing and state the appellant's standing to file the appeal, the case number and address of the subject property, and the basis for the appeal. The deadline to file an appeal is 10 days from the date the Historic Landmark Commission acts. An appeal must be submitted to the historic preservation officer.
- (E) Except as otherwise provided under this section, an appeal must comply with Article 23-2I (Appeals).

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Article 23-7E: Maintenance Requirements

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23-7E-1010 Maintenance

- (A) The owner of a building or structure is responsible for the maintenance of the building, structure, and building service equipment. The owner shall:
 - (1) Maintain the building, structure, and building service equipment in a safe and sanitary condition; and
 - (2) Maintain a device or safeguard required by a technical code in the manner required by the technical code under which the device or safeguard was installed.
- (B) The building official may inspect a building or structure to determine compliance with this section.

23-7E-1020 Duty to Preserve and Repair

- (A) This section establishes the responsibilities of an owner or other person having legal custody and control of a:
 - (1) designated or pending historic landmark;
 - (2) a contributing property within a designated or pending local historic district;
 - (3) a contributing property within a National Register historic district;
- (B) The property shall be preserved against decay and deterioration and kept free from any of the following defects, as defined in Division 23-11B-1 (Building Code) or the Existing Building Code:
 - (1) Parts that are improperly or inadequately attached so that they may fall and injure persons or property;
 - (2) Deteriorated or inadequate foundation;
 - (3) Floor supports that are defective, deteriorated, or insufficient to carry the loads imposed;
 - (4) Walls, partitions, or other vertical supports that split, lean, list, or buckle due to defect or deterioration or are insufficient to carry the loads imposed;
 - (5) Ceilings, roofs, ceiling or roof supports, or other horizontal members that sag, split, or buckle due to defect or deterioration or are insufficient to support the loads imposed;
 - (6) Broken, missing, or rotted roofing materials or roof components;

- (7) Fireplaces and chimneys that list, bulge, or settle due to defect or deterioration or are of insufficient size or strength to carry the loads imposed;
 - (8) Rotted, damaged, or missing siding or deteriorated, crumbling, or loose exterior stucco or mortar;
 - (9) Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering;
 - (10) Broken, missing, or deteriorated window glass, sashes, frames, or exterior doors or door frames;
 - (11) Any other fault, defect, or condition in the structure that renders it structurally unsafe as defined by the Building Code and the Existing Building Code; or
 - (12) Any fault, defect, or condition in the structure that allows excessive water to infiltrate the building envelope or is not sufficiently watertight as to prevent future deterioration or water infiltration.
- (C) If the building has any of the defects listed in Subsection (B), the owner shall repair the building to comply with the City's minimum housing standards.
- (D) The property shall be maintained in a manner that complies with Chapter 9-1 (Abandoned Property and Vehicles), and Chapter 10-5 (Miscellaneous Public Health Regulations).
- (E) The owner of a residential dwelling with a homestead exemption as defined under state law may apply for an exception from certain requirements of this section, provided the conditions are not a threat to public safety. The city council may grant an exception if the owner demonstrates a financial inability to comply with this section. The city council may limit the duration of the exception and may impose conditions on the exception.

23-7E-1030 Demolition by Neglect Procedure

- (A) This section applies to the owner or other person having legal custody and control of a designated or pending historic landmark or contributing property in a designated or pending local historic district.
- (B) Except as provided in Subsection (D), the following procedures apply to enforcement of this article.
- (1) The Historic Landmark Commission may request the historic preservation officer to investigate whether a property is being demolished by neglect.
 - (2) After receiving a request to investigate from the Historic Landmark Commission or on the historic preservation officer's own initiative, the historic preservation officer may investigate the property.
 - (3) The historic preservation officer shall request consent to inspect the property from the property owner **via certified mail. If no response is received within 30 days of the mailing of the request, or if consent is denied, the historic preservation officer may inspect the property with a police or code compliance escort.**
 - (4) After the inspection, the historic preservation officer **shall** confer with the appropriate departments and the property owner on a plan to stabilize, maintain, rehabilitate, and preserve the property by neglect. **If the property owner does not cooperate in preparing the plan, the historic preservation officer shall prepare it in consultation with the appropriate departments.**

- (5) The historic preservation officer shall prepare a written report on the condition of the structure, the repairs needed to maintain and stabilize the structure, the property owner's proposed plan, and any meetings and agreements between the property owner and the historic preservation officer.
- (6) The Historic Landmark Commission shall review the historic preservation officer's report and may vote to initiate a demolition by neglect case on the property.
- (7) If the Historic Landmark Commission initiates a demolition by neglect case, the historic preservation officer shall take the following actions:
 - (a) Send notice by certified mail and regular mail to the property owner or the property owner's agent that:
 - (i) describes the required repairs;
 - (ii) states that repairs must begin within 60 days from the date of the notice;
 - (iii) establishes the deadline to complete repairs; and
 - (iv) requires the property owner or the owner's agent to contact the historic preservation officer within 30 days from the date of the notice; and
 - (b) If the property owner or the owner's agent fails to contact the historic preservation officer within 30 days from the date of the notice, the historic preservation officer shall send a second notice by certified mail and regular mail; and
 - (c) Meet with the property owner or owner's agent within 90 days from the date of the notice to discuss progress in making repairs and to consider any issues that may delay completion of repairs.
- (8) The historic preservation officer may refer a demolition by neglect case to the appropriate city department or the city attorney for enforcement action to prevent demolition by neglect if the property owner fails to:
 - (a) Demolition by neglect if the property owner fails to:
 - (i) Start repairs by the deadline set in the notice;
 - (ii) Make continuous progress toward completion;
 - (iii) Complete repairs by the deadline set in the notice; or
- (9) The historic preservation officer shall provide notice of a referral under Subsection (B) (5) of this section to the property owner.

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Article 23-7F: Demolition by Neglect and New Construction

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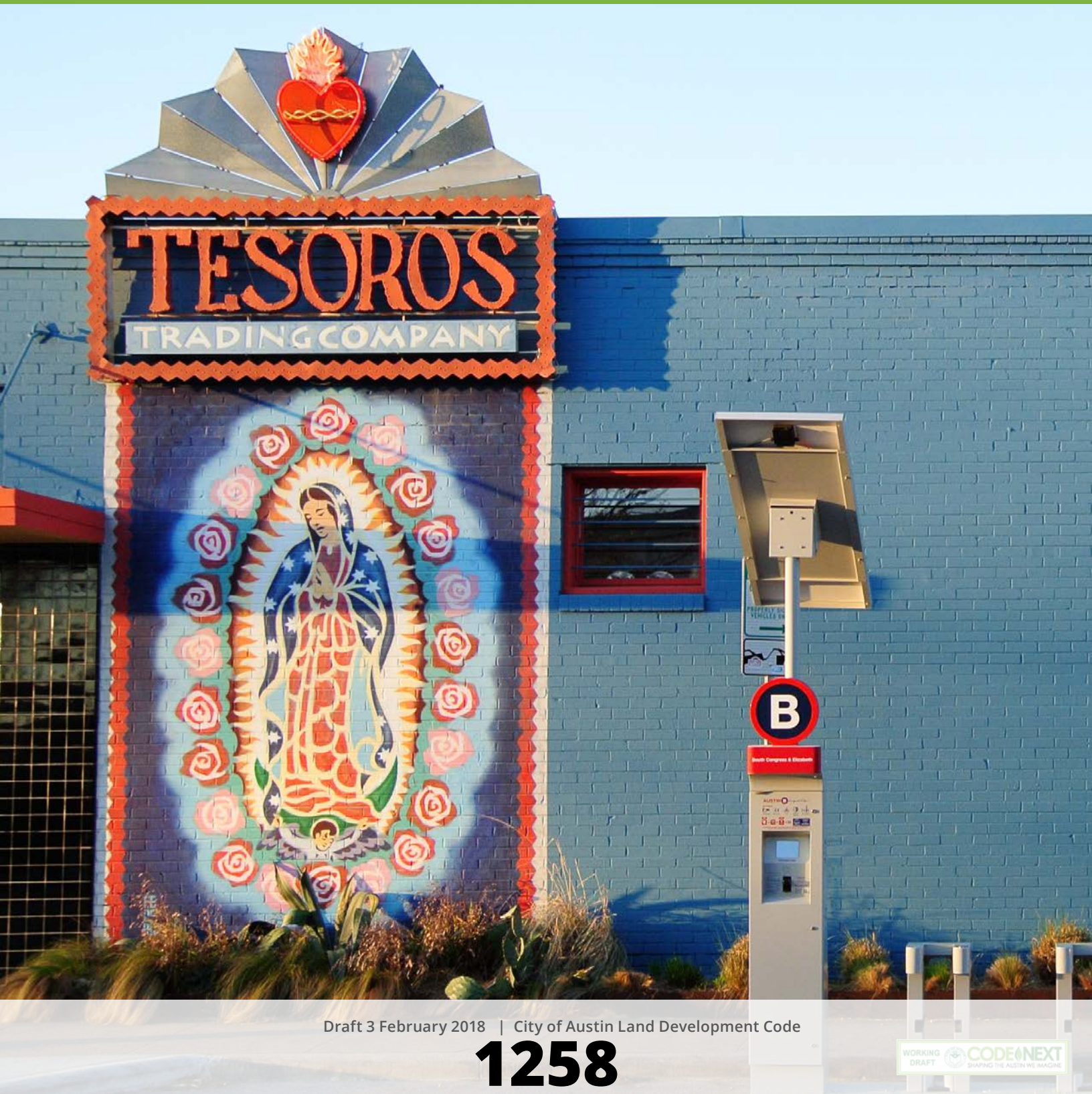
23-7F-1010	Demolition by Neglect and New Construction	1
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23-7F-1010 Demolition by Neglect and New Construction

If a building, object, site, or structure subject to this article was demolished because it was a public safety hazard and the owner received, within a one-year period, two or more notices of violation under Section 23-7E-1030 (Demolition by Neglect Procedure), the building official may not accept or consider an application for a permit for new construction on the property for a period of three years from the date the building, object, site, or structure was demolished.

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Signage



[PC Motion #100](#)

Recommend approval of Chapter 23-5, 23-7, 23-8, 23-9, 23-10, 23-12, and 23-13 with amendments previously approved

In Article 23-13: Definitions and Measurements, revise the definition of Microbrewery from 15,000 barrels to 5,000 barrels, and review Draft 3 for any terms that have been left undefined, using motions from Planning Commission CodeNEXT Draft 3 Deliberation Spreadsheet as guidance.

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23-8A-1010 Purpose and Applicability

- (A) **Purpose.** This chapter establishes a comprehensive system for the regulation of signs within the City of Austin and its extraterritorial jurisdiction, to serve the following purposes:
- (1) To protect the health, safety, and general welfare of the City and its residents and to implement the policies of the City's Comprehensive Plan;
 - (2) To allow adequate opportunity for free speech in the form of messages or images displayed on signs, while balancing that interest against public safety and aesthetic concerns impacted by signs;
 - (3) To ensure that the design, location, construction, illumination, installation, repair, and maintenance of signs:
 - (4) Does not interfere with traffic safety or otherwise endanger public safety;
 - (5) Enhances and protects the aesthetic value of the City by reducing visual clutter that is potentially harmful to property values, economic development, and quality of life; and
 - (6) Is consistent with the character of districts in which the signs are located, including areas specially designated for historic, scenic or architectural value.
 - (7) To protect the safety and efficiency of the City's transportation system by reducing confusion and distractions to pedestrians and motorists, while enhancing motorists' ability to see pedestrians, obstacles, other vehicles, and traffic signs;
 - (8) Recognizing the unique impact of off-premise advertising on public safety, visual aesthetics, and quality of life, to continue the general ban on off-premise signs adopted in 1983, by Ordinance No. 831027-L, to restrict new off-premise signs, and to minimize the impact of existing off-premise signs.
 - (9) To prevent the inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial speech over any other non-commercial speech based on its content.
- (B) **Applicability.**
- (1) **Scope of Chapter.** The requirements of this chapter apply to all signs within the planning jurisdiction that are visible from any portion of the public right-of-way open to vehicular or pedestrian traffic, except that the following are exempt from this chapter:

- (a) An image displayed on the interior wall of a building;
 - (b) Decorative or architectural features of buildings or onsite landscape features which do not include lettering, trademarks, or moving parts and which do not perform a communicative function;
 - (c) Foundation stones and cornerstones which are permanent in nature and incapable or not intended for modification once installed;
 - (d) Grave markers, grave stones, headstones, mausoleums, shrines, and other markers of the deceased;
 - (e) Identifying marks on tangible products that customarily remain attached to the product even after sale;
 - (f) Merchandise on public display and presently available for purchase on-site
 - (g) News racks and newsstands;
 - (h) Items or devices of personal apparel, decoration, or appearance, including tattoos, makeup, wigs, costumes, masks, or similar accessories, other than commercial mascots or hand-held placards or appliances worn for the principal purpose of holding a placard; and
 - (i) Vending machines, product dispensing devices, and automated product intake devices which do not display off-premise commercial messages, including depositories for recycled materials, slots for returning lent books, media, or other material, laundry boxes, and similar depositories.
- (2) **Cumulative Regulations.** As provided in Section 23-1A-5020 (Rules of Interpretation), the requirements of this chapter are cumulative and a sign must comply with the most stringent standards for area, height, number, structure, and other applicable requirements based on sign type and district.
- (C) **Authority.** The chapter is adopted pursuant to the Local Government Code, Chapters 211 and 216, and the City's municipal home rule authority.

23-8A-1020 Noncommercial Message Substitution

- (A) Signs containing noncommercial speech are permitted anywhere that signs regulated by this chapter are permitted, subject to the regulations applicable to the type of sign used to display the noncommercial message. No provision of this chapter prohibits an ideological, political, or other noncommercial message on a sign otherwise allowed and lawfully displayed under this chapter.
- (B) The owner of any sign allowed and lawfully displayed under this chapter may substitute non-commercial speech in lieu of any other commercial or non-commercial speech, with no permit or other approval required from the City solely for the substitution of copy.
- (C) This section does not authorize the substitution of an off-premise commercial message in place of a noncommercial or on-premise commercial message.

23-8A-1030 Review Authority

Authority and responsibility for implementing this chapter is delegated to the Development Services Director, who is hereafter referred to as “the director” or “responsible director.” However, the city manager may from time to time delegate particular functions under this chapter to the building official or to other City departments, which shall control over the general delegation in this subsection.

23-8A-1040 Supplemental Design Guidelines

The council may adopt design guidelines for signage within particular zones, historic districts, or geographic areas. Design guidelines may not be less restrictive than the requirements of this chapter, but may provide more specific requirements for sign size, shape, lighting, placement, or other aspects of design.

23-8A-1050 Sign Districts and Sign Overlay

- (A) **Purpose of Sign Districts and Sign Overlays.** Sign districts and sign overlays established in this section are used throughout this chapter to establish minimum requirements for particular types of signs based on the character and intensity of surrounding land uses and adjacent roadway types. Because the compatibility of a sign with its surroundings cannot be determined based solely on zoning, each sign district includes land within multiple zoning districts. If a regulation for a particular type of sign under this chapter conflicts with applicable sign district or sign overlay regulations, the more restrictive regulation applies as provided in Section 23-1A-5020 (Rules of Interpretation).
- (B) **Sign Districts and Sign District Hierarchy.** Sign district applicability and heirarchial order is established in Table 23-8A-1050(A) (Sign District Applicability and Hierarchy), with the Historic Sign District as level 1, the highest, and the Standard Sign District as level 8, the lowest.

Table 23-8A-1050(A) Sign District Applicability and Hierarchy

(1) Historic Sign District

The historic sign district is applicable to land in:

- (a) Historic Landmark and Historic District Overlay Zones; and
- (b) a National Register District.

Requirements specific to signs in this district are provided in Section 23-8C-1030 (Historic Sign District)

(2) Expressway Corridor Sign District

The expressway corridor sign district is applicable to land within 200' of the street right-of-way of:

- (a) IH-35; and
- (b) those portions of U.S. Highway 290, U.S. Highway 183 north of State Highway 71, and State Highway 71 west of Interstate 35 that are:
 - (i) developed as an access highway; or
 - (ii) have been designated by the Texas Department of Transportation as a limited access highway and for which there is a construction contract.

Requirements specific to signs in this district are provided in Section 23-8C-1040 (Expressway Corridor Sign District)

(3) Scenic Roadway Sign District

The scenic roadway sign district is applicable to:

- (a) land in the Hill Country Roadway Overlay zone;
- (b) land that would be in the Hill Country Roadway Overlay zone if it were in the zoning jurisdiction;
- (c) land within 200 ' of a scenic roadway identified in Section 23-8A-1050(D); and
- (d) land in a tract that is partially within 200' of a scenic roadway and that has frontage on and direct access to the scenic roadway.

Requirements specific to signs in this district are provided in Section 23-8C-1050 (Scenic Roadway Sign District)

(4) Residential House-Scale Sign District

The Residential House-Scale Sign District is applicable to land in a Residential House-Scale zone.

Requirements specific to signs in this district are provided in Section 23-8C-1060 (Residential House-Scale Sign District)

(5) Residential Multi-Unit Sign District

The Residential Multi-Unit Sign District is applicable to land in a Residential Multi-Unit zone.

Requirements specific to signs in this district are provided in Section 23-8C-1070 (Residential Multi-Unit Sign District)

(6) Neighborhood Commercial Sign District

The neighborhood commercial sign district is applicable land in a Mixed-Use 1, Mixed Use 2 zone, Commercial Recreation (CR) and Commercial Warehouse (CW) zones.

Requirements specific to signs in this district are provided in Section 23-8C-1080 (Neighborhood Commercial Sign District)

Table 23-8A-1050(A) Sign District Applicability and Hierarchy (continued)**(7) Regional Center Sign District**

The regional center sign district is applicable land in a Regional Center zone.

Requirements specific to signs in this district are provided in Section 23-8C-1090 (Regional Center Sign District)

(8) Standard Sign District

The standard sign district is applicable to land that is not in any other sign district.

Requirements specific to signs in this district are provided in Section 23-8C-1100 (Standard Sign District)

- (C) **Sign Overlays.** Sign overlay applicability is established in Table 23-8A-1050(B) (Sign Overlay Applicability).

Table 23-8A-1050(B) Sign Overlay Applicability**(1) Pedestrian Oriented Sign Overlay**

The Pedestrian Oriented sign overlay is applicable for signs outside of a Historic Sign District and located within:

- (a) a Main Street zone;
- (a) the University Neighborhood Overlay (UNO) zone; or
- (b) a Transit-Oriented Development or other adopted regulating plan for which compliance with University Neighborhood Overlay UNO development standards is required

Requirements specific to signs in this overlay are provided in Section 23-8C-1110 (Pedestrian Oriented Sign Overlay)

- (D) **Determination of Applicable Sign District or Sign Overlay.**

- (1) Except as otherwise provided in this section, the sign regulations for a sign district apply to all land in the sign district.
- (2) If a sign is located in more than one Sign District, the regulations for the Sign District that first appears in the hierarchy described in Table 23-8A-1050(A) (Sign District Applicability and Hierarchy) apply to the sign.
- (3) A sign located in a sign overlay shall comply with:
 - (a) The requirements of the sign overlay that the sign is located within.
 - (b) The requirements for the sign district that the sign is located within.
 - (c) Where requirements may conflict, the more restrictive requirement shall apply.
- (4) A nonconforming use is in the sign district that would apply if that nonconforming use were located in the most restrictive zoning district in which that nonconforming use is a permitted use.
- (5) For property that is not permanently zoned, the building official shall:
 - (a) determine the use or proposed use
 - (b) determine which base zoning district would be the most restrictive base zoning district in which that use would be a permitted use; and
 - (c) designate the property as a sign district in accordance with the determination under Subsection (B).

(E) **Scenic Roadways Identified.** The following are scenic roadways:

- (1) Arterial 8 (Adelaide Drive/Forsythia Drive);
- (2) Barton Springs Road;
- (3) Loop 1 (MoPac);
- (4) Loop 360 (Capital of Texas Highway), south of US 183;
- (5) RM 620, from SH 71 to Anderson Mill Road (FM 2769);
- (6) RM 2222, west of MoPac only;
- (7) RM 2244;
- (8) Lake Austin Boulevard;
- (9) West Cesar Chavez Street;
- (10) Riverside Drive;
- (11) Spicewood Springs Road, from Mesa Drive to Loop 360;
- (12) William Cannon Drive, from Brodie Lane to Southwest Parkway;
- (13) Escarpment Boulevard, from William Cannon Drive to Arterial 11 (SH 45);
- (14) Arterial 5 (McKinney Falls Parkway) from US 183 to William Cannon Drive;
- (15) FM 973 from SH 71 to US 183;
- (16) SH 71 east of IH-35;
- (17) US 183 south of SH 71;
- (18) Cameron Road, north of US 183;
- (19) Parmer Lane, except for the area between Loop 1 (MoPac) and IH-35;
- (20) Stassney Lane, east of IH-35;
- (21) Slaughter Lane;
- (22) Old Spicewood Springs Road, from Loop 360 to Old Lampasas Trail; and
- (23) SH 130.

23-8A-1060 Sign Measurements

(A) **Sign Area.** Sign area is calculated according to the requirements of this subsection.

- (1) For a wall sign, the sign area is the lesser of:
 - (a) the area of the smallest rectangle within which the face of the sign can be enclosed; or
 - (b) the smallest area of not more than three contiguous rectangles enclosing different sections of the sign.
- (2) For a single sign having two faces with only one face visible from any point, the sign area is measured using only one face.

- (3) For a three-dimensional sign, the sign area is the smallest rectangle within which the largest silhouette of the sign can be enclosed.
 - (4) Sign area does not include a supporting structure, pole cover, or landscape feature unless used to convey a message.
 - (5) A door surface sign is not included in calculating maximum allowable sign area.
 - (6) For a sign on a corner site whose allowable sign area is based on linear feet of street frontage, the maximum sign area is calculated using only the single largest street frontage.
- (B) **Sign Height.** Sign height is calculated by measuring the vertical distance above ground-level street pavement, or the building façade, to the highest point of the sign.
- (C) **Sign Clearance.** Sign clearance is calculated by measuring the smallest vertical distance between the grade of the adjacent street pavement or curb and the lowest point of the sign, excluding any sign supports. Any sign framework or embellishments are included in the measurement.

23-8A-1070 Definitions

- (A) This section defines words and phrases that are used primarily in this chapter. For words and phrases used generally throughout this Title, see Division 23-13A-1 (Terms Measurements).

AWNING SIGN. A sign that is printed, painted or affixed to an awning.

BUILDING MOUNTED SIGN. Any sign that is fastened, attached, connected, painted, or supported in whole or in part by a building or structure.

CABINET SIGN. A sign with its text or logo symbols and artwork on a translucent face panel that is mounted within a metal frame or cabinet that contains the lighting fixtures which illuminate the sign face from behind.

CANDELA. The unit of measurement for the intensity of a point source of light, approximately equal to one candlepower.

CANOPY SIGN. A sign that is printed, painted, or affixed to a canopy.

CHANGEABLE COPY SIGN. A sign that is designed so that characters, letters, numbers or illustrations can be manually changed or rearranged without altering the face or surface of the sign.

ELECTRONIC MESSAGE SIGN. A sign or portion of a sign that is capable of changing its characters, letters, numbers, illustrations, display, color, or light intensity by electronic or automatic means.

EXTERNAL ILLUMINATION. An exposed source of illumination where the light source is intentionally directed upon a sign.

FEATHER SIGN. A portable sign typically constructed of cloth, bunting, plastic, paper or similar non-rigid material, and attached to a vertically mounted pole that is securely fastened to the ground.

FESTOON. A sign consisting of ribbons, tinsel, small flags, pinwheels, garland or other material hanging or draped.

FLAG. A piece of fabric or similar material attached to a flag pole or other support on one side, where the length at right angles to the support is at least as long as the length of the attached side.

FOOT-CANDLE. A unit of illumination equal to that given by a source of one candela at a distance of one foot, which is generally equivalent to one lumen per foot or 10.764 lux.

FREESTANDING SIGN. A sign not attached to a building, but permanently supported by a structure extending from the ground and permanently attached to the ground.

FULLY SHIELDED. A light fixture or luminous tube constructed and mounted such that all light emitted by the fixture or tube, either directly from the lamp, tube, or a diffusing element, or indirectly by reflection or refraction from any part of the light fixture, is projected below the horizontal. If the lamp or tube, any reflective surface, or lens cover (clear or prismatic) is visible when viewed from above or directly from the side, from any angle around the fixture or tube, the fixture or tube is not fully shielded.

HALO ILLUMINATION. A form of sign illumination in which neon tubing, LED, or similar lights are mounted within a letter, numeral, or symbol to illuminate the mounting surface causing a halo of light around the letter, numeral, or symbol.

HAZARDOUS SIGN. A sign that the director has determined to be a hazardous sign under Section 23-8B-30 (Hazardous Signs).

INTERNAL ILLUMINATION. A source of illumination where the light source is entirely enclosed within the sign and not directly visible.

LANDSCAPE WALL SIGN. A sign mounted on a screen, fence or perimeter wall which may be attached or detached from a building.

LED. A Light Emitting Diode (i.e. electronic components that let electricity pass in only one direction) that emit visible light when electricity is applied.

LUMEN. A unit of luminous flux used to measure light. One lumen equals one foot-candle falling onto one square foot of area.

MAINTENANCE. The cleaning, painting, repairing, or replacing of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign, but does not include changing the cabinet structure or design of the sign's support construction, changing the type of component materials, or increasing the illumination.

MANSARD. A sloped wall segment or façade that imitates a building roof.

MARQUEE SIGN. A vertical sign that is located either along the main facade where it projects perpendicular to the facade or at the corner of the building where it projects at a 45-degree angle.

MOBILE BILLBOARD. A sign installed or displayed on a motorized vehicle operating in the public right-of-way for the purpose of advertising a business or entity that is unrelated to the owner of the vehicle's primary business. The term does not include a sign that cannot display electronic messages and is displayed or installed on:

- a. a non-motorized vehicle, including pedi-cabs;
- b. a bus that is used primarily for the purpose of transporting multiple passengers;
- c. a taxicab or transportation network provider operator, if the sign complies with the requirements of City Code Section 13-2-488 (Advertising on Taxicabs Permitted); or

- d. a vehicle operated in the normal course of the vehicle owner's business, if the sign contains advertising or identifying information directly related to the business and is not used to display advertising that is unrelated to the business.

MONUMENT SIGN. A self-supporting sign with its base attached to the ground.

MULTI-FACE SIGN. A sign consisting of more than two display faces or surfaces.

MULTI-TENANT BUILDING OR USE. A commercial, office, or industrial development in which there exists three or more separate activities with direct exterior access, and in which there are common shared facilities. Distinguishing characteristics of a multi-tenant building or use may include common ownership of the real property upon which the building or use is located, common wall construction and multiple occupant use of a single structure.

MULTI-TENANT SIGN. A sign associated with two or more uses with common facilities.

NEON SIGN. A sign consisting of neon tubes formed into text, numerals, symbols, or decorative elements that is directly visible from outside the sign cabinet.

NEON TUBE. A glass tube filled with a gas or gas mixture (including neon argon, mercury, or other gasses), usually of small diameter (10-15 millimeters), caused to emit light by the passage of an electric current, and commonly bent into various forms for use as decoration or signs. Does not include common fluorescent tubes.

NONCONFORMING SIGN. A sign that was lawfully installed at its current location but does not comply with the requirements of this chapter.

OFF-PREMISE SIGN. A sign that displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution, or other commercial message which is generally conducted, sold, manufactured, produced, offered, or occurs elsewhere than on the premises where the sign is located. For purposes of this definition, any portion of a lawfully permitted special event where public streets have been closed to traffic in accordance with Title 14 (Use of Streets and Public Property) shall be considered a single premises.

ON-PREMISE SIGN. A sign that is not an off-premise sign.

PAD SITE. A freestanding building or prepared building area containing a single commercial use that is physically and operationally separate from other buildings on the site and is typically located closer to the street or freeway than other adjacent commercial buildings. The term includes buildings located on the same site or a separate lot or tract as adjacent buildings.

PARAPET. That portion of a wall that extends above the roof line.

PERMANENT SIGN. A sign constructed of durable materials and intended to exist for the duration of time that the use or occupant is located on the premises.

POLE SIGN. A permanent sign wholly supported mounted on a pole or tube in the ground without any type of secondary support.

PORCH SIGN. A pedestrian-scaled sign that is mounted on a porch and legible from the sidewalk.

POST SIGN. A sign that stands directly on the ground and is mounted on two posts at the outermost side of the sign face, and is typically double-faced.

PORTABLE SIGN. A sign that is capable of being moved and not designed to be permanently attached to a building or permanently anchored to the ground that is constructed of paper, cloth, canvas, light fabric, cardboard, plywood, light plastic or other similar materials.

PROJECTING SIGN. A sign attached to, and extending from, a building or other structure.

PROJECTED SPECIAL EVENT SIGN. An image or series of images displayed on a building façade and conveyed to the building façade via beams of light in connection with a special event.

RACEWAY. An enclosed conduit or structure to protect electrical wiring and cables from heat, humidity, corrosion, water intrusion and other physical threats.

RIGHT-OF-WAY INSTALLATION. A legally permitted bicycle kiosk, bus stop, or transit facility that is located in the public right-of-way.

ROOF SIGN. A sign that is installed over or on the roof of a building or that extends, wholly or partially, above the highest parapet of a flat-roofed building or beyond the eave of a pitched roof building.

SEARCHLIGHT SIGN. A sign consisting of a bright light source that projects a beam.

SIDEWALK SIGN. A sign located on a sidewalk, either within street right-of-way or on private property within a unified development, that is either constructed in such a manner as to form an “A” or a tent-like shape that is hinged or not hinged at the top, or an upright sign that is constructed to be taller than it is wide and mounted on a weighted base. Also known as an “A-Frame Sign”.

SIGN. A display surface, structure, light device, banner, plaque, poster, billboard, pennant, figure, painting, drawing, flag, or other thing, whether mounted on land, air, or water, that is designed, intended, or used to display or draw attention to a communicative visual or graphic image, whether or not the image includes lettering. A sign includes both on- and off-premise signs, including billboards, and any moving part, lighting, sound equipment, framework, background material, structural support, or other part thereof.

SIGN FACE. The display area of a sign that is or can be used to display the sign message.

SLOPING PLANE SIGN. A sign printed, painted, or affixed to the upper surface of the sloping plane of an awning sign.

SPECIAL EVENT. An event that:

- (a) Has 100 or more attendees per day at a city facility, other than the Austin Convention Center, Long Center, City Hall, or Palmer Events Center;
- (b) Impacts a city street, sidewalk, alley, walkway, or other city public right-of-way other than as permitted under Chapter 14-6 (Temporary Street Closure); or
- (c) Is temporary, involves 100 or more attendees per day, and;
- (d) is inconsistent with the permanent use to which the property may legally be used, or the occupancy levels permitted on the property; and
- (e) includes one of the following:
 - a. Set up of temporary structures including, but not limited to tents, stages, or fences;
 - b. Sound equipment, as defined in Section 9-2-1 (Definitions); or
 - c. Consumption of food or alcohol.

SPINNER. A sign or portion of a sign which in any physical part or in total turns about on an axis, rotates, revolves or is otherwise in motion.

STREET BANNER. A fabric sign hung over a street maintained by the City.

STREET RIGHT-OF-WAY. The entirety of a public street right-of-way, including the roadway and pedestrianway.

SUBDIVISION SIGN. A freestanding permanent sign placed at the entry of a multi-lot, master planned subdivision.

SUSPENDED SIGN. A sign attached to the underside of beams or ceilings of a gallery, breezeway or similar covered area, and which is hung either perpendicular or parallel to a wall surface.

TEMPORARY SIGN. A sign placed for a limited period of time that is constructed of paper, cloth, canvas, light fabric, wallboard, light plastic or other light, flimsy material.

VALANCE SIGN. A sign printed, painted, or affixed to the valance of an awning sign.

WALL MURAL SIGN. A permanent sign painted or erected along a secondary façade, side street, alley, or along the side of a vacant site. Wall mural signs are usually accompanied by additional signage on the primary facade at the business entrance, and are pedestrian-scaled on the ground floor and larger on upper stories.

WALL BANNER SIGN. A temporary sign constructed of cloth, bunting, plastic, paper or similar non-rigid material, and securely attached to the wall or support structure for which it is advertising. Flags are not considered temporary wall banners.

WALL SIGN. A sign attached to either the exterior of a building or to a freestanding structure with a roof but no walls, including a parapet.

WINDOW SIGN. A sign posted, painted, placed or affixed in or on a window, or otherwise exposed to public view through a window.

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Division 23-8A-2: Sign Permits and Registration

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23-8A-2010 Sign Permits

(A) Sign Permits Required.

- (1) **Sign Installation Permits.** A person may not install, move, structurally alter, or structurally repair a sign without a sign installation permit issued by the director or building official under this chapter, except that a sign installation permit is not required for:
 - (a) a sign described under Section 23-8B-2020 (Permanent Signs Without a Permit) or Section 23-8B-2030 (Temporary Signs Without a Permit); or
 - (b) routine maintenance, nonstructural repair, or re-facing of a lawfully installed existing sign.
- (2) **Other Permits.** In addition to a sign installation permit required by this chapter, a building or electrical permit may also be required to install a sign as specified by the Building Code, Electrical Code, and other applicable requirements applicable to construction or installation of signs under Chapter 23-11 (Technical Codes).
- (3) **Violation.** It is a violation of this chapter to install or maintain a sign without a sign installation permit, as required by this section, unless the sign meets the requirements of this section or Section 23-8B-2030 (Temporary Signs Without a Permit).

- (B) **Application Requirements.** An application for a sign installation permit is subject to the review and submittal requirements established by Article 23-2B (Application Review and Fees) and must include all information required by the director, together with an application fee established by separate ordinance.

(C) Standards for Approval.

- (1) The director shall approve an application for a sign installation permit if the proposed sign meets the requirements of this chapter and any other applicable requirements or design guidelines adopted by the council. A sign installation permit may not be issued for a sign that does not meet all applicable requirements.
- (2) If an application proposes a type of sign not specifically described in this chapter, the director shall review the application under the requirements applicable to the most similar sign type regulated by this chapter.

(D) Permit Expiration.

- (1) **Expiration.** A sign installation permit expires on the 180th day after the permit is issued unless:
 - (a) the applicant requests a final inspection before that date; or
 - (b) the applicant requests and is granted an extension as described in Subsection (2).

- (2) **Extension.** The director may grant a single 90-day extension if the applicant requests an extension before the permit expires.
 - (a) A permit that receives an extension expires on the 270th day after the permit was issued unless the applicant requests a final inspection before that date.
 - (b) If an extension is granted, the sign installation permit expires on the 270th day after it was granted, unless the applicant requests a final inspection before the sign installation permit expires.
- (E) **Inspection and Construction Requirements.**
 - (1) In addition to meeting the requirements of this chapter, all permanent signs must be installed and constructed in compliance with applicable technical code requirements as determined by the building official.
 - (2) All signs for which a sign installation permit is required are subject to inspection or re-inspection, at the discretion of the building official, in order to determine:
 - (a) compliance the requirements of this chapter and applicable technical codes, including electrical requirements for illuminated signs; and
 - (b) whether footings, braces, anchors, supports, and connections have been properly installed.
- (F) **Notification Requirement for Permits Affecting Off-Premise Signs.** For a permit application to repair or replace a nonconforming off-premise sign under Section 23-8B-4010 (General Requirements for Nonconforming Signs), the director or building official shall provide notice of application under Section 23-2C-5010 (Notice of Application).

23-8A-2020 Contractor's Registration

- (A) **Registration Required.** A permanent sign may not be installed, moved, structurally altered, structurally repaired, or maintained unless the person doing the work is registered with the director in compliance with this section.
- (B) **Exemptions.** The registration requirement of Subsection (A) does not apply to:
 - (1) An employee of a person or company that is already registered;
 - (2) Painting or re-facing an existing sign;
 - (3) Installation or maintenance of a sign for which a permit is not required under Section 23-8B-2020 (Permanent Signs Without a Permit) and Section 23-8B-2030 (Temporary Signs Without a Permit);
 - (4) The installation of individual components of a wall sign not attached to each other as part of a larger sign, if each component is less than 32 square feet in size, securely affixed to a building, fence, or wall, and not more than three inches thick;
 - (5) The installation or maintenance of a freestanding sign that is less than eight feet in height; or
 - (6) The placement of a sidewalk sign.
- (C) **Registration Fee.** An applicant must pay a registration fee in the amount established by separate ordinance when an application for registration is filed.
- (D) **Prerequisites; Expiration; Nontransferable.**

- (1) A registration may not be approved unless an indemnification agreement and proof of insurance is provided in accordance with this subsection:
 - (a) A registrant shall indemnify the City from all liability arising from the person's activities or operations and pay all expenses incurred in defending against a claim made against the City; and
 - (b) A registrant shall purchase and maintain at all times insurance for bodily injury and property damage liability in amounts and with the coverages, terms, and conditions required by rules promulgated by the City Manager in compliance with Chapter 1-2 (Adoption of Rules) of the City Code.
- (2) Registration expires on December 31 of each calendar year and must be renewed annually.
- (3) Registration is not transferable.

(E) Revocation or Suspension

- (1) The director or building official may suspend or revoke a contractor's registration under this section upon finding that the registrant:
 - (a) Committed fraud or deceit in registering;
 - (b) Allowed a person other than the registrant who obtained the sign installation permit, or an employee acting under the direct supervision of that person, to perform work for which the sign installation permit is required;
 - (c) Acted with gross negligence, incompetency, or misconduct in the performance of sign work;
 - (d) Intentionally made a false or misleading material statement on the application for a sign installation permit or in providing facts to support the director's determination that a particular sign is a nonconforming sign;
 - (e) Installed, moved, or structurally altered or repaired a sign in violation of this chapter; or
 - (f) Failed to maintain the insurance required by Subsection (D)(1)(b).
- (2) In issuing a revocation or suspension under this section, the director or Building Official shall:
 - (a) Make the revocation or suspension effective for a period of not less than 30 days and no more than 180 days; and
 - (b) Provide notice of revocation or suspension consistent with the requirements of Division 23-2J-2 (Suspension and Revocation), except that a suspension order is not required before revocation.
- (3) A registrant may appeal a suspension or revocation under this section to the Building and Fire Code Board of Appeals, consistent with the requirements of Section 23-2J-4020 (Appeal of Enforcement Orders) and Article 23-2I (Appeals).

23-8A-2030 **Billboard Registration**

- (A) **Purpose and Applicability.** This section imposes requirements for registering nonconforming off-premise signs so that the City can maintain an inventory of lawfully existing off-premise signs to ensure compliance with this chapter and the protection of public health, safety, and welfare.
- (B) **Billboard Registration.**
- (1) The owner of a nonconforming off-premise sign must register the sign every year with the director. The registration must be on a form prescribed by the director and must include:
 - (a) the name, address, and contact information of the sign owner and the owner of the property on which the sign is located;
 - (b) information regarding the location, height, size, construction type, materials, setback from property boundaries, and illumination of each off-premise sign owned by the registrant; and
 - (c) payment of a registration fee, in an amount established by separate ordinance.
 - (2) Initial registration under this section must occur within 180 days after the date a nonconforming off-premise sign becomes subject to the City's planning jurisdiction.
 - (3) An unregistered off-premise sign is not eligible for onsite relocation under Section 23-8B-4010 (General Requirements for Nonconforming Signs).
 - (4) The director shall notify the property owner of the pending expiration of a sign registration, including an annual inventory, no earlier than 90 days and no later than 30 days prior to the expiration.
- (C) **Identification Markers.** The sign owner shall place identifying markers on a nonconforming off-premise sign in a manner prescribed by the director or building official, which must include the applicable registration number and measurement points to assist in verifying sign height.
- (D) **Violations and Enforcement.** A person who fails to register a sign as required by this section commits an offense and shall be sentenced to a fine of up to \$500 per day for each day that the offense continues and for each sign that is not registered.

Article 23-8B: Regulations Applicable To All Signs

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Division 23-8B-1: General Requirements

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23-8B-1010 Purpose and Applicability

- (A) This division sets forth minimum requirements applicable to different types of signs regardless of the sign district in which the sign is located. It is a violation of this chapter to install or maintain a sign that does not meet the requirements of this division.
- (B) Not all sign types covered in this division are allowed in each sign district, and in some sign districts the requirements for a particular type of sign may be more restrictive than the minimum standards established in this division.
- (C) Even if a sign meets the requirements of this division, a sign installation permit is required unless the sign is exempt as provided under Division 23-8B-2 (On-Premise Signs Allowed Without a Permit).

23-8B-1020 Illuminated Signs

- (A) **Purpose and Applicability.** The requirements of this section apply to all illuminated signs, including electronic message signs, and are intended to address the impacts of illumination on public safety and visual aesthetics.
- (B) **Illuminated Signs Authorized.** A permanent signs may be:
 - (1) non-illuminated, unless required to be illuminated as provided in Article 23-8C (Regulations Applicable to Sign Districts and Sign Types); or
 - (2) illuminated by:
 - (a) internal light fixtures, such as a cabinet sign;
 - (b) halo-illuminated; or
 - (c) illuminated by external indirect illumination.
- (C) **Signs that May Not Be Illuminated.** The following signs may not be illuminated:
 - (1) A sign that fails to meet the requirements of Subsection (D).
 - (2) A sign the may not be illuminated as provided in Article 23-8C (Regulations Applicable to Sign Districts and Sign Types);

- (3) a permanent sign associated with a single-family residence or a one or two-unit residential structure;
 - (4) a wall banner; or
 - (5) a portable sign.
- (D) **General Requirements for Illuminated Signs.** An illuminated sign is prohibited if it fails to meet the requirements of this subsection.
- (1) Sign illumination must:
 - (a) be designed to minimize light and glare on surrounding right-of-way and property; and
 - (b) be limited to avoid light projection or reflection into residential zones.
 - (2) Sign illumination:
 - (a) may not blink, flash, flutter, or change light intensity, brightness, or color, except for illuminated window signs that are no greater than 2.5 square feet in area;
 - (b) for an externally illuminated sign, may be illuminated only with steady, stationary, fully shielded light sources directed solely onto the sign without causing glare; and
 - (c) may not direct or reflect light from primary light sources in a manner that would create a hazard for pedestrians or operators of motor vehicles.
 - (3) LED and neon lighting is encouraged to conserve energy and to provide for creatively designed and attractive signs. For purposes of this section, single or multi-color LED signs are considered internally illuminated signs.
- (E) **Electronic Message Signs.** An electronic message sign is prohibited if it fails to meet the requirements of this subsection.
- (1) **Location and Number.** One electronic message sign per site is allowed in the Standard Sign District and Expressway Corridor Sign District, on all sign types for which internal illumination is allowed.
 - (2) **General Standards and Requirements.** An electronic message sign:
 - (a) Must be turned off daily by the later of 10 p.m. or the close of business;
 - (b) Must be equipped with a sensor or other device that automatically determines the ambient illumination, through photocell or similar technology, and:
 - (i) is programmed to automatically dim according to ambient light conditions; or
 - (ii) can be adjusted to comply with the nighttime brightness requirement in Subsection (E)(3).
 - (c) May not flash, blink, flutter, or display any illumination or message that is in motion or appears to be in motion, including video messages or intermittent or chasing lights; and
 - (d) May not display a changing message for less than four seconds.
 - (3) **Night-time Brightness.** An electronic message sign is prohibited if the illuminance differential of any message displayed on the sign exceeds 0.3 foot-candles at night, as determined by the director in accordance with this subsection.
 - (a) For purposes of this subsection, the illuminance differential is the difference in foot-candles between the brightness of an electronic message:

- (i) turned off; and
 - (ii) displaying a white image, for a full color-capable electronic message, or a solid message for a single-color electronic message.
- (b) The night-time brightness of an electronic message sign must be measured:
 - (i) with an illuminance meter set to measure foot-candles accurate to at least two decimals; and
 - (ii) perpendicular to the face of the electronic message at the following distance.
Measurement Distance = $\sqrt{(\text{Area of Sign Sq.Ft.} \times 100)}$

23-8B-1030 Searchlight Signs

- (A) The director may issue a permit for a searchlight sign if no searchlight has been used at the location within the preceding two months and the applicant demonstrates, in a form acceptable to the director, that the searchlight will meet the requirements of Subsection (B).
- (B) A searchlight must be maintained and operated in compliance with the following requirements:
 - (1) Not more than four beams of light may be projected from a site, the aggregate light intensity of which may not exceed 1,600 million foot candles;
 - (2) A searchlight may be operated on a site for not more than 10 consecutive days and may not be operated between the hours of 1:00 a.m. and 7:00 a.m.;
 - (3) A searchlight located within 25 feet of a street right-of-way must not project beams at an angle of less than 30 degrees above grade; and
 - (4) A searchlight must not:
 - (a) Project a beam at a street right-of-way or adjoining property; or
 - (b) Impair the vision of a driver of a vehicle.

23-8B-1040 Structural Requirements

- (A) A freestanding permanent sign must be designed, installed, and maintained so that it can withstand a horizontal pressure of 30 pounds per square foot of exposed surface.
- (B) Any angle iron, bracing, guy wires, or similar features used to support a sign must not be visible to the extent technically feasible.

23-8B-1050 Electrical Service

- (A) A building permit (electrical) must be issued prior to installation of any new signs requiring electrical service.
- (B) When electrical service is provided to freestanding signs or landscape wall signs, all such electrical service is required to be underground and concealed.

- (C) When electrical service is provided to building mounted signs, included conduit, housings, and wire, must:
 - (1) be concealed; or
 - (2) painted, when necessary, to match the surface of the structure upon which they are mounted.

23-8B-1060 Sign Setbacks

- (A) Sign support.
 - (1) A sign support with a diameter of more than 12 inches and not more than 24 inches must be set back at least three feet from a street right-of-way;
 - (2) A sign support with a diameter of more than 24 inches and not more than 36 inches must be set back at least five feet from the street right-of-way; or
 - (3) A sign support with a diameter of more than 36 inches must be set back at least 12 feet from the street right-of-way.
- (B) A freestanding sign within 12 feet of a street right-of-way must have either:
 - (1) a height of not more than 30 inches; or
 - (2) a sign clearance of at least nine feet.
- (C) This section does not apply to any sign permitted under 23-8B-2030(G) (Temporary Signs for Elections).

23-8B-1070 Sign Materials

- (A) Sign materials (including framing and supports) must be characteristic of or compatible with the type and scale of materials used on the site where the sign is located.
- (B) Mirrors or similarly reflective materials on signs are prohibited.
- (C) Sign materials must be durable and capable of withstanding weathering over the life of the sign with reasonable maintenance.

23-8B-1080 Sign Maintenance

- (A) All signs, both temporary and permanent, must be continuously maintained in compliance with the following standards:
 - (1) Each sign and supporting hardware must be maintained in good repair so that it is able to function properly at all times. This includes the replacement of burned out or broken light bulbs and repair or replacement of faded, peeled, torn, cracked, or otherwise damaged parts of a sign.
 - (2) Signs that have structural or electrical components that may be compromised by weather should be inspected as necessary by a competent engineer or qualified building inspector, contractor, or sign professional.

- (3) Any repair to a sign must be of the same materials as the original sign.
- (4) Signs that have been physically damaged by weather or physical impact must be reviewed by a competent structural engineer or qualified building inspector, contractor, or sign professional within 24 hours after the damage occurs.
- (5) Signs that are not properly maintained and are dilapidated will be deemed a public nuisance, and must be abated under Article 23-2J (Enforcement).
- (6) When an existing sign is replaced, all brackets, poles, and other supports that are no longer required must be removed.
- (7) Property owners are responsible for the structural and electrical integrity of signs located on their property and for obtaining all necessary permits required under Division 23-8A-2 (Sign Permits and Registration).
- (8) Repairs or alterations to an existing nonconforming sign, including off-premise signs, must also comply with applicable requirements of Division 23-8B-4 (Nonconforming Signs).

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Division 23-8B-2: On-Premise Signs Allowed Without a Permit

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23-8B-2010 Purpose and Applicability

- (A) This division establishes requirements for on-premise signs generally associated with particular land uses and allowed without a permit.
- (B) A sign allowed under this division:
 - (1) may be installed without obtaining a sign installation permit under Section 23-8A-2010 (Sign Permits), but must comply with all applicable requirements of this chapter and Chapter 23-11 (Technical Codes); and
 - (2) is in addition to other signs allowed under this chapter.

23-8B-2020 Permanent Signs Without a Permit

- (A) **Permanent Signs Generally.** The signs described in this subsection may be installed or modified without a sign installation permit, provided that the sign otherwise complies with the Building Code and with all applicable regulations of this chapter, including the limits applicable to sign districts and sign types under Article 23-8C (Regulations Applicable to Sign Districts and Sign Types).
- (B) Signs for Commercial, Multi-Family, Civic and Public Assembly, and Industrial Uses.
 - (1) On a site containing a Commercial, Multi-Family, Civic and Public Assembly, or Industrial Use, one sign per curb cut, such as those typically used to direct the movement or placement of vehicular or pedestrian traffic provided that:
 - (a) the sign's total area does not exceed 12 square feet; and
 - (b) the sign's height does not exceed
 - (i) four feet, for a freestanding sign; or
 - (ii) the height of the building façade, for a building-mounted sign.
 - (2) On a site containing a restaurant use that includes drive-through service, no more than two signs for each drive-through lane if:
 - (a) the sign's total area does not exceed 32 square feet;
 - (b) the sign's height does not exceed eight feet above grade;
 - (c) signs are located within or adjacent to a drive-through lane; and
 - (d) signs are substantially screened from view of the street right-of-way.

- (3) On a site containing an automotive sales, rental, or storage use, one small flag attached to each vehicle, provided that:
 - (a) the flag's area does not exceed one square foot; and
 - (b) the flag's height does not exceed two feet above the vehicle or other item, measured as if it were displayed at grade level.
- (4) On a site containing a retail use, a sign accompanying the display of an item for sale or affixed to a product dispenser.
- (5) On a site containing a civic use, one or more signs that:
 - (a) the total area of signs does not exceed 32 square feet; and
 - (b) the sign's height does not exceed six feet above grade.
- (C) Signs for Residential Uses.
 - (1) On a site containing a residential use, one or more signs that:
 - (a) are not illuminated;
 - (b) have no moving parts;
 - (c) the total area of signs does not exceed 36 square feet; and
 - (d) the sign's height does not exceed eight feet above grade.
 - (2) On a site within a Residential House-Scale Sign District, one or more flags, provided that:
 - (a) the maximum number of flags does not exceed three flags per acre of site area, rounded up to the nearest whole acre and
 - (b) the maximum area of a flag does not exceed 15 square feet.
- (D) General On-Premise Signs.
 - (1) On a site that is not in the Residential House-Scale or Residential Multi-Unit Sign Districts, one or more small wall signs, such as emblems and decals typically associated with on-premise goods, services or facilities, that:
 - (a) the total small wall sign area does not exceed six square feet per site.
 - (2) On a site that is not within the Historic or Residential House-Scale Sign Districts:
 - (a) one non-electrical freestanding sign that:
 - (i) the sign's area does not exceed 20 square feet; and
 - (ii) the sign's height does not exceed eight feet above grade; and
 - (b) one or more non-electrical signs securely affixed to a building, fence, or wall, provided that:
 - (i) the sign does not exceed a thickness of 3 inches; and
 - (ii) the total area of signs allowed under this subsection and subsection (a) may not exceed 32 square feet.
 - (c) one or more flags, provided that:
 - (i) the maximum number of flags does not exceed two flags per 25 feet of frontage up to a maximum of eight flags per premises; and

- (ii) the maximum area of a flag does not exceed 25 square feet.
- (3) Engraved signs, such as those traditionally associated with a building name, provided that the sign:
 - (a) is cut into a building surface or inlaid to become part of the building; and
 - (b) does not exceed an area of ten percent of the building's facade.
- (4) One or more non-electrical electrical signs, such as those typically used to identify an address number or occupant, which do not exceed a total of three square feet in area for each site associated with the address on which the sign is located.

23-8B-2030 Temporary Signs Without a Permit

- (A) **Temporary Signs Generally.** The signs described in this subsection may be installed or modified without a sign installation permit, provided that the sign otherwise complies with the Building Code and with all applicable regulations of this chapter, including the limits applicable to sign districts and sign types under Article 23-8C (Regulations Applicable to Sign Districts and Sign Types).
- (B) **Temporary Commercial Signs.** A wall sign or window sign, such as those typically associated with a commercial event, sale, or similar activity that does not normally occur on a property, is allowed if:
 - (1) the property contains a commercial use;
 - (2) the sign is displayed for not more than 30 days, at least one of which must be a day on which a lawfully permitted special event, sale, or other activity that does not normally occur on the property is scheduled to occur; and
 - (3) limited to a maximum sign area of:
 - (a) 96 square feet, for a sign attached to a building; or
 - (b) 30 percent of the window area, for a sign displayed in a window.
- (C) **Temporary Signs for Civic and Public Assembly Uses.** A sign or banner located on a site containing a civic use may be placed on a building or fence located on the facility's property, but may not be displayed for more than 150 consecutive days.
- (D) **Temporary Signs for Residential Uses.** A sign, such as those typically associated with a garage sale, yard sale, neighborhood meeting, or similar activity that does not normally occur on a property, is allowed if:
 - (1) the property contains a residential use; and
 - (2) the sign is displayed for no more than seven consecutive days, at least one of which must be a day on which a lawfully permitted activity or event that does not normally occur on the property is scheduled to occur.
- (E) **Temporary Signs for Activity Affecting Real Property.** One sign per lot, or one sign per access point within a unified development, may be displayed no sooner than 30 days before an activity affecting real property on the site begins and no later than 30 days after that same activity ends, provided that:

Temporary Signs Without a Permit

- (1) For purposes of this subsection, an “activity affecting real property” means the construction, remodeling, improvement, development, sale, or lease of a building or the land on which the building is located;
- (2) For a freestanding sign, the maximum sign area does not exceed the lesser of:
 - (a) in a Residential House-Scale Sign District, 12 square feet;
 - (b) in a Residential Multi-Unit Sign District, 48 square feet; or
 - (c) in all other sign districts, 128 square feet.
- (3) For a building-mounted sign, the maximum sign area does not exceed ten percent of the area of the building façade.
- (4) For a freestanding or building-mounted sign, the maximum height may not exceed:
 - (a) in Residential House-Scale Sign District, six feet above grade; or
 - (b) in all other sign districts, 22 feet above grade.
- (F) **Temporary Decorative Signs.** A decoration, such as those which displayed during a holiday season, that would otherwise not be allowed under this chapter may be displayed on a property for no more than 45 consecutive days or 90 days per year.
- (G) **Temporary Signs for Elections.** A sign that meets the following requirements may be displayed no sooner than 60 days before, and no later than 10 days after, an election is held for any federal, state or local political office representing citizens of the City:
 - (1) For each site or lot, the total sign area of the signs described in this subsection must not exceed 36 square feet.
 - (2) A sign described in this subsection must not:
 - (a) exceed eight feet in height; or
 - (b) have a moving part.
- (H) **Sidewalk Signs.** A sidewalk sign installed in accordance with the requirements of this chapter.

Division 23-8B-3: Prohibited Signs

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23-8B-3010	Signs Prohibited in All Sign Districts	1
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23-8B-3030	Hazardous Signs	3

23-8B-3010 Signs Prohibited in All Sign Districts

- (A) Unless the director determines that a sign is legally nonconforming under Division 23-8B-4 (Nonconforming Signs), the following signs are prohibited in all sign districts:
- (1) Off-premise signs;
 - (2) Signs that could be confused with any authorized traffic signal or device, as determined by the City's Traffic Engineer;
 - (3) Any sign mounted or placed on a vehicle or trailer that is parked or located for the primary purpose of displaying the sign;
 - (4) Movable or Relocatable Signs.
 - (a) Any sign not permanently affixed to a building, structure, or the ground that is designed or installed in a manner allowing the sign to be moved or relocated without any structural or support changes including but not limited to:
 - (i) feather signs; and
 - (ii) signs supported or animated by air.
 - (b) Sidewalk signs installed in accordance with the requirements of this chapter are excluded from this regulation.
 - (5) Tethered, pilotless balloons or other gas-filled devices used as signs;
 - (6) Mobile billboards within the City's full-purpose jurisdiction;
 - (7) Hazardous signs;
 - (8) Signs that include lighting devices with:
 - (a) intermittent, flashing, rotating, blinking or strobe light illumination
 - (b) animation, motion picture, or laser or motion picture projection; or
 - (c) any lighting effect creating the illusion of motion, as well as laser or hologram lights;
 - (9) Signs that include an exposed light source, except for neon or LED lighting that is incorporated into the design of the sign;
 - (10) Signs that include sound, odor or smoke;
 - (11) Inflatable balloons, spinners, strings of flags, pennants or festoons, fixed aerial displays, streamers, tubes, or other devices that:
 - (a) are affected by the movement of the air, other atmospheric or mechanical means; or

- (b) either attached to a sign or to vehicles, structures, poles, trees and other vegetation, or similar support structures.
- (12) Signs that are deemed to be abandoned under Section 23-8D-1020 (Abandoned Signs) or, if nonconforming, have lost their legal nonconforming status under Section 23-8B-4020 (Termination of Nonconforming Signs).

23-8B-3020 Signs Prohibited in Public Easements and Right-of-Way

- (A) **Prohibition and Exceptions.** A person may not cause or authorize a sign to be installed, used, or maintained on or over public right-of-way or other public property, including any public easement or other public encumbrance over private property, except for:
 - (1) a sidewalk sign;
 - (2) a projecting sign;
 - (3) a building-mounted sign that extends not more than 18 inches from the façade of a building and into the right-of-way; or
 - (4) a sign installed or licensed by a governmental agency for a governmental purpose, including a lawfully permitted street banner permitted under Section 23-8C-3030 (Standards for Street Banners) or a sign on installed on a right-of-way installation.
- (B) **Violation and Enforcement.**
 - (1) It is an offense to cause or authorize the installation, use, or maintenance of a sign in violation of this section.
 - (2) The primary beneficiary of any sign installed in violation of this section is presumed to have authorized or caused the installation, use, or maintenance of the sign in violation of this section and commits an offense.
 - (3) Proof of a culpable mental state is not required for conviction of an offense under this section.
 - (4) Removal
 - (a) A person who commits an offense under Subsection (B)(1) shall remove the object.
 - (b) The City may remove a sign or other advertising device installed, used, or maintained on or over any public property or public right-of-way in violation of this chapter. Notice is not required to be given to the owner or beneficiary of a sign removed under this section, either before the removal or before the disposition or destruction of the sign.
 - (5) Abandoned Signs
 - (a) A sign installed, used, or maintained on or over public property or public right-of-way is presumed to be abandoned, unless the sign is authorized by this chapter.
 - (b) Chapter 9-1 (Abandoned Property and Vehicles) does not apply to a sign abandoned under this section.
 - (6) Fines
 - (a) An offense under this section is punishable by a fine of not less than:

- (i) \$ 50 for a first conviction;
 - (ii) \$ 200 for a second conviction within any 24-month period; and
 - (iii) \$ 400 for a third or subsequent conviction within any 24-month period.
- (b) In addition to other enforcement remedies, a person who fails to remove an object within 48 hours after being notified of the offense in writing by an authorized City representative is subject to a civil penalty of \$200 per day for every day or part of a day the object is in place.
- (7) To determine the minimum fine under Subsection (6), one or more fines assessed during a 24-hour period beginning at midnight and ending at 11:59 p.m. constitute a single conviction.
- (8) The remedies authorized under this subsection are cumulative. If the City files a civil or criminal action, it is not precluded from pursuing any other action or remedy.

23-8B-3030 Hazardous Signs

- (A) **Hazardous Signs Prohibited.** A person may not install, maintain, or use a sign that:
- (1) obstructs a fire escape, required exit, window, or door used as a means of escape;
 - (2) interferes with a ventilation opening, except that the sign may cover a transom window if the window and the sign comply with the Building Code and Fire Code;
 - (3) substantially obstructs the lighting of public right-of-way or other public property, or interferes with a public utility or traffic control device;
 - (4) contains or uses a supporting device placed on public right-of-way or other public area within the full purpose boundaries of the City, unless the use of the public right-of-way or other public area has been approved in the manner required by City Code;
 - (5) is illuminated in a manner that creates a hazard to pedestrian or vehicular traffic;
 - (6) creates a traffic hazard by restricting visibility at a curb cut;
 - (7) violates a requirement of the Electric Code;
 - (8) does not comply with a sign setback required by this chapter;
 - (9) is determined by the Building Official to be dangerous due to a condition or defect described in Section 302 of the Dangerous Buildings Code; or
 - (10) has less than nine feet of sign clearance, is over 30 inches in height, and is located within a triangle formed by connecting the back curb intersection point of two streets and the points 45 feet from the intersection point at the property line of the back curb street frontage of each intersecting street, except that the director may waive or modify these restrictions if:
 - (a) the Transportation Director approves the waiver or modification; and
 - (b) if strict compliance:
 - (i) would prohibit placement of a freestanding sign that would otherwise be allowed; or
 - (ii) is unnecessary due to unusual site conditions.

(B) Designation and Notice of Hazardous Sign.

- (1) If a sign meets one or more of the criteria in Subsection (A), the director or building official may designate the sign as hazardous and provide notice to the sign owner, sign operator, or property owner by certified mail, with return receipt requested, under Section 23-2C-5020 (Notice of Administrative Decision).
- (2) The notice shall generally describe the hazardous conditions and shall require that abatement of the hazardous sign occur by a time certain, as determined by the director or building official, which may not exceed 10 days after receipt of the notice.

(C) Abatement of Hazardous Sign.

- (1) If the hazardous condition is not abated by the deadline established in a notice of hazardous conditions under Subsection (B), the director or building official may enter the premises and abate the hazardous condition.
- (2) The reasonable cost of abating the hazardous sign, together with interest on the unpaid balance at an interest rate of six percent, shall be taxed as a lien against the record owner of the property on which the sign is located.
- (3) The director or building official shall:
 - (a) retain a hazardous sign removed under this subsection for at least 10 days , at which time the director or building official may dispose of the sign; or
 - (b) return the sign, if the sign owner pays a storage fee established by separate ordinance prior to disposal of the sign.
- (4) A hazardous sign may not be reinstalled or placed except in conformance with all applicable provisions of this chapter.

Division 23-8B-4: Nonconforming Signs

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23-8B-4010 General Requirements for Nonconforming Signs

- (A) **Continuation Allowed; Change or Alteration Prohibited.** A person may continue to use or maintain a nonconforming sign at its existing location, but may not change or alter a nonconforming sign unless the director or building official approves an application authorizing the change or alteration consistent with the requirements of this section.
- (B) **Changes That Do Not Increase Nonconformity.** A nonconforming sign may be changed or altered if the change or alteration does not:
 - (1) increase the degree of existing nonconformity with any regulation of this Title;
 - (2) change the method or technology used to convey a message;
 - (3) change or alter the sign face, except for the substitution of copy; or
 - (4) increase the illumination of the sign.
- (C) **Onsite Relocation.** A nonconforming sign may not be relocated to another lot or site, but may be relocated at its existing location if the director determines that:
 - (1) the sign is located on a site that is either:
 - (a) partially taken by condemnation; or
 - (b) partially conveyed under threat of condemnation or moved to comply with other regulations;
 - (2) the relocated sign will not be hazardous; and
 - (3) for a nonconforming off-premise sign, the sign is registered with the City as required under Section 23-8A-2030 (Billboard Registration).
- (D) **Modification and Replacement.** A nonconforming sign may be modified or replaced in the same location, if the modification or replacement reduces:
 - (1) the sign area by at least 20 percent;
 - (2) the height of the sign by at least 20 percent; or
 - (3) both sign area and height of the sign by an amount which, combined, is equal to at least 20 percent of the sign area and height.
- (E) **Repair of Damaged Sign.** If a nonconforming sign is damaged by accident, natural catastrophe, or the intentional act of a person other than the sign owner or landowner, the sign owner or landowner may repair the damaged sign in accordance with the requirements of this subsection.
 - (1) The cost of repairing the nonconforming sign may not exceed 60 percent of the cost of installing a new sign of the same type in the same location, as determined by an independent third-party appraiser;

- (2) The sign owner or landowner must:
 - (a) apply for a repair permit not later than the 30th day after the date of damage; and
 - (b) complete the repairs not later than the 90th day after the date the director approves the permit application.
- (3) If the requirements of this section are not met, the sign owner or landowner must remove a damaged nonconforming sign and may not replace the sign with another nonconforming sign.
- (F) **Restrictions on Maintenance.** The director may not issue a permit for maintenance of a nonconforming sign if the maintenance cost exceeds 60 percent of the cost of installing a new sign of the same type in the same location, as determined by an independent third-party appraiser.

23-8B-4020 Termination of Nonconforming Signs

- (A) **Purpose.** This section specifies the conditions under which the right to maintain a nonconforming sign is terminated due to abandonment, discontinuance, or conversion to a conforming sign. A nonconforming sign that is terminated under this section must be removed or converted to a conforming sign and may not be reinstalled except in full conformance with this chapter.
- (B) **Termination by Abandonment of Sign.** A nonconforming sign is abandoned and may not be reinstalled if:
 - (1) the nonconforming sign is dismantled before an application for repair, replacement, or onsite relocation is submitted under Section 23-8B-4010 (General Requirements for Nonconforming Signs);
 - (2) the nonconforming sign is dismantled and repair, replacement, or onsite relocation consistent with a permit approved under Section 23-8B-4010 (General Requirements for Nonconforming Signs) is not substantially complete within 90 days from the date of permit approval; or
 - (3) the nonconforming sign is abandoned due cessation of use or vacation of the site under Section 23-8D-1020 (Abandoned Signs).
- (C) **Termination of Nonconforming Off-Premise Sign Use.** A nonconforming off-premise sign use is terminated and may not be continued:
 - (1) either of the conditions for abandonment specified in Subsections (B)(1)-(2) occur; or
 - (2) use of the sign for off-premise advertising ceases for 90 days or more, in which case the nonconforming use is deemed to be discontinued under Section 23-2G-1060(C) (Termination by Abandonment or Discontinuance of Use).
- (D) **Removal of Previously Relocated Off-Premise Signs.** If an off-premise sign was relocated from its original location, as authorized under the predecessor of this Land Development Code, the sign must be permanently removed no later than 25 years after the date the relocation application was approved unless, within that 25-year period, the sign owner permanently removes another non-conforming off-premise sign.

Article 23-8C: Regulations Applicable To Sign Districts and Sign Types

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Division 23-8C-1: Regulations by Sign District and Sign Overlay

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23-8C-1010 Purpose and Applicability

- (A) This division specifies regulations applicable within each of the sign districts and the sign overlay established by Section 23-8A-1050 (Sign Districts and Sign Overlay).
- (B) All signs within the City’s planning jurisdiction are located within a district, but not every district includes regulations applicable to every type of sign. Signs are also regulated based on the type of sign, under Division 23-8C-2 (Regulations by Sign Type), and the most restrictive requirement applies in the event that regulations conflict.

23-8C-1020 Sign District Regulations

Sections 23-8C-1030 - 1110 specify requirements applicable to a sign based on the district or overlay in which the sign is located. For purposes of citation, each requirement in the table constitutes a code section; for example, Subsection (2) in Table 23-8C-1040(A) (Expressway Corridor Sign District) restricts the number of signs in the Expressway Corridor Sign District.

23-8C-1030 Historic Sign District

- (A) **Requirements.** A sign located in the Historic Sign District must comply with the requirements established in Table (A) (Historic Sign District) and procedures established in Subsection (B).

Table 23-8C-1030 (A) Historic Sign District

(1) Allowed Sign Types

Only sidewalk signs and signs approved under the historic review process established in this section are permitted.

Roof signs, wall mural signs, and pole signs are prohibited.

(2) Number of Signs and Sign Area

Restrictions on number and area imposed via historic review process established in this section.

(3) Other

Rotating parts are not permitted.

- (B) **Historic District Review Procedures.** In order to ensure that signs within the Historic Sign District are compatible with applicable guidelines and with the character of historic areas, an application for a sign installation permit within the Historic Sign District must be reviewed under Subsections (C) and (D).
- (C) **Review by Historic Preservation Officer.**
- (1) The historic preservation officer shall review an application for a sign installation permit within the Historic Sign District if the director or building official has determined that the application complies with all applicable regulations of this chapter and 23-11 (Technical Codes).
 - (2) The historic preservation officer shall approve the application if it complies with the applicable Historic Sign District Guidelines adopted by the Historic Landmark Commission under Subsection (D).
 - (3) The historic preservation officer's decision to approve or deny the application may be appealed to the Historic Landmark Commission under Article 23-2I (Appeals).
- (D) **Review by the Historic Landmark Commission.**
- (1) Review of a sign installation permit by the Historic Landmark Commission is required if Historic Sign District Guidelines have not been adopted or if an appeal of the historic preservation officer's decision to approve or deny the application is filed, as authorized by Subsection (C)(3).
 - (2) The Historic Landmark Commission shall conduct a public hearing before acting on an application for a sign installation permit, and the historic preservation officer shall provide notice of the hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice).
 - (3) After conducting a public hearing on the application, the Historic Landmark Commission shall approve or deny the application based on the following criteria:
 - (a) The Historic Landmark Commission shall approve a sign installation permit application if it is determined that the proposed sign:
 - (i) Will not adversely affect a significant architectural or historical features of the Historic Sign District; and

- (ii) Is consistent with the Historic Landmark Preservation Plan, the character of the National Register District, if applicable, and the purpose of the Historic Landmark regulations.
- (b) In applying the criteria under Subsection (D)(3), the Historic Landmark Commission shall consider:
 - (i) the materials from which the sign will be constructed;
 - (ii) the number of signs on a building or site;
 - (iii) the proposed orientation of the sign with respect to buildings and structures; and
 - (iv) other factors consistent with the Historic Landmark Preservation Plan, the character of the National Register District, if applicable, and the purpose of the historic landmark regulations.
- (4) If the Historic Landmark Commission does not review a Sign Installation Permit application by the 40th day after the date the application is filed, the application will be considered approved.

23-8C-1040 Expressway Corridor Sign District

- (A) **Requirements.** A sign located in the Expressway Corridor Sign District shall comply with the requirements established in Table (A) (Expressway Corridor Sign District).

Table 23-8C-1040 (A) Expressway Corridor Sign District

(1) Allowed Sign Types

All sign types are permitted.

(2) Number of Signs

(a) Freestanding or Roof Signs

For lots fronting only one street:	1 sign for lots with street frontage \leq 400'; or 2 signs for lots with street frontage $>$ 400'
For lots fronting two or more streets	2 signs
For a pad site	1 sign in addition to the other freestanding or roof signs permitted by this chapter

(b) Other Signs

Flags	1 flag per curb cut
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(3) Sign Area

(a) Freestanding & Roof Signs

For lots with 86 linear feet of street frontage or less, the total sign area on a site shall not exceed:	60 sf maximum of total sign area on a site
For lots with more than 86 linear feet of street frontage, the total sign area on a site shall not exceed the lesser of:	0.7 sf for each linear foot of street frontage; or 300 sf

(b) Other Signs

For all other signs the total sign area on a site shall not exceed:	20% of the facade area of the first 15' of the building
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(4) Height

(a) Freestanding sign

The sign height may not exceed the greater of:	35' above frontage street pavement grade; or 20' above grade at the base of the sign.
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(b) Roof sign

The sign height shall not exceed the lesser of:	5' above the building facade; or 5' above the maximum height permitted for a freestanding sign
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23-8C-1050 Scenic Roadway Sign District

- (A) **Requirements.** A sign located in the Scenic Roadway Sign District shall comply with the requirements established in Table (A) (Scenic Roadway Sign District).

Table 23-8C-1050 (A) Scenic Roadway Sign District**(1) Allowed Sign Types**

All sign types are permitted except for:	changeable copy signs; electronic message centers; marquee signs; roof signs; wall mural signs; and pole signs.
--	--

(2) Maximum Number of Signs**(a) Freestanding or Roof Signs**

For lots fronting only one street:	1 sign for lots with street frontage \leq 400'; or 2 signs for lots with street frontage $>$ 400'
For lots fronting two or more streets	2 signs
For a pad site within a unified development	1 sign in addition to the other freestanding or roof signs permitted by this chapter

(3) Sign Area**(a) Freestanding Signs**

The sign area may not exceed the lessor of:	0.4 sf for each linear foot of street frontage; or 64 sf
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(a) Building Mounted Signs

The sign area may not exceed	10% of the facade area of the first 15' of the building
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(4) Height

For a freestanding sign, the sign height may not exceed	12'
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(5) Setback

In addition to meeting any other applicable setback requirements, a sign or sign support must be installed at least the lessor distance from the street of:	12' from the street right-of-way; or 25' from street pavement or curb in the right-of-way
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(6) Lighting

Internal lighting of signs is prohibited, except for the internal lighting of individual letters.

In a Hill Country Roadway corridor, a spotlight on a sign or exterior lighting of a sign must be concealed from view and oriented away from adjacent properties and roadways.

23-8C-1060 Residential House-Scale Sign District

- (A) **Requirements.** A sign located in the Residential House-Scale Sign District shall comply with the requirements established in Table (A) (Residential House-Scale Sign District).

Table 23-8C-1060 (A) Residential House-Scale Sign District

(1) Allowed Sign Types

Only signs allowed under Division 23-8B-2 (On-Premise Signs Allowed Without a Permit) are permitted.

23-8C-1070 Residential Multi-Unit Sign District

- (A) **Requirements.** A sign located in the Residential Multi-Unit Sign District shall comply with the requirements established in Table (A) (Residential Multi-Unit Sign District).

Table 23-8C-1070 (A) Residential Multi-Unit Sign District

(1) Allowed Sign Types

All sign types are permitted except for:

- changeable copy signs;
- electronic message centers;
- marquee signs;
- roof signs;
- suspended signs;
- wall mural signs; and
- pole signs.

(2) Maximum Number of Signs

Freestanding sign	1 sign per curb cut
Building mounted signs	No limit on number of signs
Flag	1 flag per curb cut

(3) Sign Area

For a freestanding or building mounted sign, the maximum sign area may not exceed:	35 sf
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(4) Height

For a freestanding sign, the sign height may not exceed:	6'
For a flag, the may not exceed a height of:	30'

23-8C-1080 Neighborhood Commercial Sign District

- (A) **Requirements.** A sign located in the Neighborhood Commercial Sign District shall comply with the requirements established in Table (A) (Neighborhood Commercial Sign District).

Table 23-8C-1080 (A) Neighborhood Commercial Sign District**(1) Allowed Sign Types**

All sign types are permitted except for:	changeable copy signs; marquee signs; roof signs; suspended signs; wall mural signs; and pole signs.
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(2) Maximum Number of Signs

Freestanding sign	1 sign
Building mounted signs	No limit on number of signs
Flag	1 flag per curb cut

(3) Sign Area

For a Freestanding sign, the sign area may not exceed the lessor of::	0.3 sf for each linear foot of street frontage; or 100 sf
For all building mounted signs, the maximum total sign area may not exceed:	10% of the facade area of the first 15' of building height

(4) Height

For all signs, the height may not exceed the greater of:	20' above frontage street pavement grade; or 6' above grade at the base of the sign
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23-8C-1090 Regional Center Sign District

- (A) **Requirements.** A sign located in the Regional Center Sign District shall comply with the requirements established in Table (A) (Regional Center Sign District).

Table 23-8C-1090 (A) Regional Center Sign District

(1) Allowed Sign Types

All sign types are permitted except for: roof signs.

(2) Maximum Number of Signs

(a) Freestanding or Roof Signs

For lots fronting only one street	1 sign for lots with street frontage \leq 400'; or 2 signs for lots with street frontage $>$ 400'
For lots fronting two or more streets	2 signs
For a pad site within a unified development	1 sign in addition to the other freestanding or roof signs permitted by this chapter

(b) Other Signs

Building mounted signs	No limit on number of signs
Projecting signs	1 sign for each building facade.
Flag	1 flag per curb cut

(3) Sign Area

For a freestanding sign, the sign area may not exceed the lessor of:	0.5 sf for each linear foot of street frontage; or 200 sf
For a all building mounted signs, the total sign area for a site may not exceed:	20% of the facade area of the first 15' of the building
For a all projecting signs, the total sign area for a site may not exceed:	35 sf

(4) Height

For a freestanding sign, the maximum height may not exceed:	6'
For a flag, the maximum height may not exceed:	30'

(5) Setback and Encroachment

A sign may extend from the building facade not more than the lessor of:	6'; or a distance equal to two-thirds the width of the abutting sidewalk
A flag may be suspended over public right-of-way, subject to applicable restrictions of this Title.	
State approval is required for a sign projecting over state right-of-way.	

23-8C-1100 Standard Sign District

- (A) **Requirements.** A sign located in the Standard Sign District shall comply with the requirements established in Table (A) (Standard Sign District).

Table 23-8C-1100 (A) Standard Sign District**(1) Allowed Sign Types**

All sign types are permitted.

(2) Maximum Number of Signs**(a) Freestanding Sign**

For lots fronting only one street	1 sign for lots with street frontage \leq 400'; or 2 signs for lots with street frontage $>$ 400'
For lots fronting two or more streets	2 signs
For a pad site within a unified development	1 sign in addition to the other freestanding or roof signs permitted by this chapter

(b) Other Signs

Building mounted signs	No limit on number of signs
Flag	1 flag per curb cut

(3) Sign Area

For a freestanding sign, the sign area may not exceed the lesser of:	0.7 sf for each linear foot of street frontage; or 250 sf for a multi-tenant sign; or 200 sf for a sign other than a multi-tenant sign
For all building mounted signs, the maximum total sign area may not exceed:	20% of the facade area of the first 15' of the building

(4) Height

For all roof signs, the height may not exceed the lesser of:	5' above the building facade; or 5' above the maximum height permitted for other sign type.
For all other signs, the height may not exceed the greater of:	30' above frontage street pavement grade; or 6' above grade at the base of the sign

23-8C-1110 Pedestrian Oriented Sign Overlay

(A) Requirements.

- (1) A sign located in the Pedestrian Oriented Sign Overlay shall comply with:
 - (a) The requirements established in Table (A) (Pedestrian Oriented Sign Overlay); and
 - (b) The requirements for the sign district that the sign is located within.
- (2) Where requirements conflict, the more restrictive requirement shall apply.

Table 23-8C-1110 (A) Pedestrian Oriented Sign Overlay

(1) Allowed Sign Types

All sign types are permitted except for:	freestanding signs; and roof signs.
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(2) Maximum Number of Signs

Projecting sign	1 sign per building facade
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(3) Sign Area

(a) Projecting Sign

For a projecting sign, the sign area may not exceed:	35 sf
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(b) Other Signs

For all other signs, the sign area may not exceed:	100 sf of sign area,
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Exception. The above limitation does not apply along the following roadways:	Guadalupe Street, from Martin Luther King, Jr. Blvd. to West 29th Street; West 24th Street, from Guadalupe Street to Leon Street; Martin Luther King, Jr. Blvd., from Pearl Street to the alley one block east of University Avenue; and West 29th Street, from Guadalupe Street to Rio Grande Street.
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(4) Location

Signs may be located or mounted on or below the second floor of a building,

Exception. The above limitation does not apply to a non-electric sign that is engraved, cut into the building surface, or otherwise inlaid to become part of the building located above the second floor.

(5) Setback and Encroachment

A sign may extend from the building facade not more than the lesser of:	6'; or a distance equal to two-thirds the width of the abutting sidewalk
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A flag may be suspended over public right-of-way, subject to applicable restrictions of this Title.

State approval is required for a sign projecting over state right-of-way.

Division 23-8C-2: Regulation by Sign Type

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23-8C-2010 Purpose and Applicability

- (A) This division specifies regulations applicable to the different types of signs defined under Section 23-8A-1070 (Definitions).
- (B) Signs are also subject to regulation under Division 23-8C-1 (Regulations by Sign District and Sign Overlay), based on the district in which the sign is located. In the event of a conflict, the most restrictive regulation applies.

23-8C-2020 Standards for Building-Mounted Signs

Table (A)s in Sections 23-8C-2030-2140 specify requirements applicable to various types of building-mounted signs. For purposes of citation, requirements in the table are organized in the same manner as a code section; for example, Subsection (2)(a) in Table 23-8C-2030(A) (Awning or Canopy Sign) restricts maximum area for sign located on a canopy.

23-8C-2030 **Awning or Canopy Sign**

- (A) **Requirements.** Awning or canopy signs shall comply with the requirements established in Table (A) (Awning or Canopy Sign).

Table 23-8C-2030 (A) Awning or Canopy Sign



(1) Number of Signs

Signs on a canopy may not exceed:	1 sign per storefront
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(2) Dimensional Requirements

(a) For signs located on a canopy

Area of a sign may not exceed:	1 square foot per linear foot of the building facade width.
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(b) For signs located on the sloping plane of an awning

Area of a sign may not exceed:	45% of the area of the sloping plane; or if an awning covers multiple storefronts, each store is permitted an area of 75% of store width.
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(b) For signs located on the valance of an awning

Area of a sign may not exceed:	75% of the area of the valance.
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(3) Additional Requirements

If a sign is not subject to a particular restriction, such as height, that restriction may apply to the sign under Division 23-8C-1 (Regulations by Sign District and Sign Overlay) or another provision of this chapter.

23-8C-2040 Changeable Copy Sign

- (A) **Requirements.** Changeable copy signs shall comply with the requirements established in Table (A) (Changeable Copy Sign).

Table 23-8C-2040 (A) Changeable Copy Sign**(1) Number of Signs**

Changeable copy sign may not exceed:	1 changeable copy sign per building
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(2) Dimensional Requirements

Area of a changeable copy sign may not exceed:	less than 24 sf; or more than 20% of the maximum total area of all building-mounted signs allowed on the property.
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(3) Illumination Requirements

A changeable copy sign must be non-illuminated or internally illuminated.

(4) Additional Requirements

If a sign is not subject to a particular restriction, such as height, that restriction may apply to the sign under Division 23-8C-1 (Regulations by Sign District and Sign Overlay) or another provision of this chapter.

23-8C-2050 Landscape Wall Sign

- (A) **Requirements.** Landscape wall signs shall comply with the requirements established in Table (A) (Landscape Wall Sign).

Table 23-8C-2050 (A) Landscape Wall Sign



(1) Dimensional Requirements

Area of a landscape wall sign may not exceed the lesser of:	24 sf in a Low-Density or Residential Multi-Unit Sign District;
	36 sf in all other sign districts; or
	40% of the landscape wall or fence on which it appears.

(2) Illumination Requirements

A landscape wall sign must be non-illuminated, internally illuminated, or halo-illuminated.

(3) Additional Requirements

If a sign is not subject to a particular restriction, such as height, that restriction may apply to the sign under Division 23-8C-1 (Regulations by Sign District and Sign Overlay) or another provision of this chapter.

23-8C-2060 Marquee Sign

- (A) **Requirements.** Marquee signs shall comply with the requirements established in Table (A) (Marquee Sign).

Table 23-8C-2060 (A) Marquee Sign**(1) Number of Signs**

For building frontages of less than 200', no more than:	1 marquee sign
For building frontages of 200' or more, no more than:	2 marquee signs

(2) Dimensional Requirements

Width of a marquee sign may not exceed:	30"
Depth of a marquee sign may not exceed:	10"

Lettering on a marquee sign may not be wider than of 75% of the sign's maximum width.

(3) Location Requirements

Marquee signs may not extend beyond the top plate.

Marquee signs must be placed at the highest story of the building.

Marquee signs must be located along a street frontage.

(4) Illumination Requirements

Marquee signs must be non-illuminated, halo-illuminated, or internally illuminated.

(5) Additional Requirements

If a sign is not subject to a particular restriction, such as height, that restriction may apply to the sign under Division 23-8C-1 (Regulations by Sign District and Sign Overlay) or another provision of this chapter.

23-8C-2070 Porch Sign

- (A) **Requirements.** Porch signs shall comply with the requirements established in Table (A) (Porch Sign).

Table 23-8C-2070 (A) Porch Sign



(1) Dimensional Requirements

Area of a porch sign may not exceed:	6 sf
Width of a porch sign may not exceed:	36"
Height of a porch sign may not exceed:	36"

(2) Illumination Requirements

A porch sign must be non-illuminated or externally illuminated.

(3) Additional Requirements

If a sign is not subject to a particular restriction, such as height, that restriction may apply to the sign under Division 23-8C-1 (Regulations by Sign District and Sign Overlay) or another provision of this chapter.

23-8C-2080 Projecting Sign

- (A) **Requirements.** Projecting signs shall comply with the requirements established in Table (A) (Projecting Sign).

Table 23-8C-2080 (A) Projecting Sign**(1) Dimensional Requirements**

Area of a projecting sign may not exceed:	35 sf
Width of a projecting sign may not exceed:	36"
Thickness of a projecting sign may not exceed:	4"
Height of a projecting sign may not exceed:	36"

(2) Location Requirements

Projecting sign may not be placed closer than 25' from another projecting sign.

(3) Illumination Requirements

Projecting sign must be non-illuminated or externally illuminated, except that internal illumination of individual letters is allowed.

(4) Design Standards

Projecting sign must be perpendicular to a building's façade.

(5) Additional Requirements

If a sign is not subject to a particular restriction, such as height, that restriction may apply to the sign under Division 23-8C-1 (Regulations by Sign District and Sign Overlay) or another provision of this chapter.

23-8C-2090 **Roof Sign**

- (A) **Requirements.** Roof signs shall comply with the requirements established in Table (A) (Roof Sign).

Table 23-8C-2090 (A) Roof Sign



(1) Dimensional Requirements	
Area of a roof sign may not exceed:	20% of the area of the building façade directly below the sign.
Thickness of lettering on a roof sign may not exceed:	8"
(2) Location Requirements	
Roof sign must be mounted on the lowest 1/3 of the slope of a peaked or sloped rooftop.	
(3) Illumination Requirements	
Roof sign may not be externally illuminated.	
Individual letters, numbers, or symbols on a roof sign must be non-illuminated or internally illuminated.	
(4) Additional Requirements	
If a sign is not subject to a particular restriction, such as height, that restriction may apply to the sign under Division 23-8C-1 (Regulations by Sign District and Sign Overlay) or another provision of this chapter.	

23-8C-2100 Suspended Sign

- (A) **Requirements.** Suspended signs shall comply with the requirements established in Table (A) (Suspended Sign).

Table 23-8C-2100 (A) Suspended Sign**(1) Dimensional Requirements**

Area of a suspended sign may not exceed:	6 sf
Width of a suspended sign may not exceed:	36"
Height of a suspended sign may not exceed:	36"

(2) Illumination Requirements

Suspended sign may be non-illuminated or externally illuminated

(3) Additional Requirements

If a sign is not subject to a particular restriction, such as height, that restriction may apply to the sign under Division 23-8C-1 (Regulations by Sign District and Sign Overlay) or another provision of this chapter.

23-8C-2110 Wall Sign

- (A) **Requirements.** Wall signs shall comply with the requirements established in Table (A) (Wall Sign).

Table 23-8C-2110 (A) Wall Sign



(1) Dimensional Requirements

Area of a wall sign is limited only by the applicable maximum area for all building-mounted signs.

A wall sign may not project more than 8", from the wall.

(2) Location Requirement

Wall sign may not protrude beyond the top plate of a building.

(3) Design Standards

Wall sign may be a cabinet sign.

(4) Additional Requirements

If a sign is not subject to a particular restriction, such as height, that restriction may apply to the sign under Division 23-8C-1 (Regulations by Sign District and Sign Overlay) or another provision of this chapter.

23-8C-2120 Wall Mural Sign

- (A) **Requirements.** Wall mural signs shall comply with the requirements established in Table (A) (Wall Mural Sign).

Table 23-8C-2120 (A) Wall Mural Sign**(1) Number of Signs**

Wall Mural Sign may not exceed:	1 wall mural sign per building
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(2) Dimensional Requirements

For a one-story building, a wall mural sign may not exceed an:	Area of 1,000 sf; or Width of 60'
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For a two-story building, a wall mural sign may not exceed an:	Area of 3,200 sf; or Width of 80'
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For a building with three or more stories, a wall mural sign may not exceed an:	Area of 3,000 sf; or Width of 100'
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A wall mural sign may not project more than 8" from the wall.

Lettering and logos on a wall mural sign may not exceed an area equal to 10% of the maximum allowed area of the sign

(3) Illumination Requirements

Wall mural sign must be illuminated.

(4) Additional Requirements

If a sign is not subject to a particular restriction, such as height, that restriction may apply to the sign under Division 23-8C-1 (Regulations by Sign District and Sign Overlay) or another provision of this chapter.

23-8C-2130 Window Sign

- (A) **Requirements.** Window signs shall comply with the requirements established in Table (A) (Window Sign).

Table 23-8C-2130 (A) Window Sign



(1) Dimensional Requirements	
Area of a sign located on the ground floor may not exceed:	40% of the area of a ground floor window
Area of a sign located on an upper floor may not exceed:	50% of the area of an upper story window
Width of a sign may not exceed:	75% of the width of the storefront
Height of a sign may not exceed:	36"
(2) Location Requirements	
Window Sign must be a minimum of five feet above ground.	
Window sign must be applied directly inside of window glass	
(3) Illumination Requirements	
Window sign may not be illuminated.	
(4) Design Standards	
Window sign must have a transparent background.	
(5) Additional Requirements	
If a sign is not subject to a particular restriction, such as height, that restriction may apply to the sign under Division 23-8C-1 (Regulations by Sign District and Sign Overlay) or another provision of this chapter.	

23-8C-2140 Standards for Freestanding Signs

- (A) Monument, Pole and Post signs standards determined by applicable under Division 23-8C-1 (Regulations by Sign District and Sign Overlay).
- (B) Sidewalk Signs.
 - (1) Requirements. Table 23-8C-2140(A) (Sidewalk Signs) specifies requirements applicable to sidewalk signs. For purposes of citation, requirements in the table are organized in the same manner as a code section; for example, Subsection (1) in Table 23-8C-2140(A) (Sidewalk Sign) restricts maximum number of sidewalk signs.
 - (2) Location Requirements.
 - (a) A sidewalk sign may only be located:
 - (i) on a sidewalk at least 10 feet in width;
 - (ii) directly in front of a building that is not set back from street right-of-way, for a sign in the public right-of-way;
 - (iii) on a sidewalk directly in front of the business associated with the sign, for a sign in a unified development;
 - (iv) no closer than 20 feet from a driveway or pedestrian crosswalk; and
 - (v) in coordination with other permitted right-of-way uses, as determined by the building official.
 - (b) A sidewalk sign may not narrow the navigable sidewalk to less than 6 feet in width or obstruct the line of sight for oncoming traffic.
 - (3) Operational Requirements:
 - (a) A sidewalk sign may be displayed only during the hours the associated business is open to the public.
 - (b) The owner or operator of the sign must, upon request, provide the building official with proof of:
 - (i) an insurance policy protecting the City from liability arising from installation, use, or maintenance of the sign, in accordance with the requirements of Section 23-8B-2020(D)(1)(b) (General On-Premise Signs); and
 - (ii) indemnification of the City for liability arising from the installation, use or maintenance of the sign.



(1) Number of Signs	
Sidewalk Sign (max.)	1 per business may be placed on a site
(2) Dimensional Requirements	
Width of a sign may not exceed the lessor of:	30"; or one-third of the width of the sidewalk on which it is placed.
Height of a sign may not exceed:	4'
(3) Design Standards	
Sidewalk sign may contain or use a supporting device placed on street right-of-way	
(4) Additional Requirements	
If a sign is not subject to a particular restriction, such as height, that restriction may apply to the sign under Division 23-8C-1 (Regulations by Sign District and Sign Overlay) or another provision of this chapter.	

Division 23-8C-3: Regulations for Non-Standard Signs

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23-8C-3010 Purpose and Applicability

- (A) This division specifies regulations for signs allowed on a temporary basis, including signs associated non-standard events and activities or signs authorized to be placed on public property.
- (B) Signs are also subject to regulation under Division 23-8C-1 (Regulations by Sign District and Sign Overlay), based on the district in which the sign is located, and Division 23-8C-2 (Regulations by Sign Type). In the event of a conflict, the most restrictive regulation applies.

23-8C-3020 Standards for Temporary Signs

- (A) **Purpose and Applicability.** The requirements of this section apply to all temporary signs allowed under this chapter, whether or not the sign requires an installation permit or is allowed without a permit under Section 23-8B-2030 (Temporary Signs Without a Permit).
- (B) **Illumination Prohibited.** A temporary sign may not include any form of illumination, including flashing, blinking, or rotating lights, animation, reflective materials, or attachments, including any balloons, pennants, or ribbons.
- (C) **Durability of Construction.** A temporary sign must be of sufficient weight and durability to withstand wind gusts and storms, as determined by the building official in accordance with applicable codes and standards.
- (D) **Limitations Based on Sign Area.**
 - (1) A temporary sign exceeding 48 square feet in area:
 - (a) may only be displayed for 30 days once every 12 months and may not be used as a permanent sign; and
 - (b) must be securely fastened to a building wall.
 - (2) A temporary sign of less than 48 square feet in area may be securely fastened to a building wall or installed securely in the ground.

23-8C-3030 Standards for Street Banners

- (A) **Purpose and Applicability.**

- (1) The purpose of street banners is to enhance the streetscapes of Austin by permitting banners in public right-of-way that promote public events and information of public interest, including information related community and civic organizations.
 - (2) Street banners are an urban design tool and are encouraged to promote the identity and character of an individual district, neighborhood, corridor, or other distinct area, as well as for wayfinding and to celebrate community resources or neighborhood assets.
 - (3) Subject to approval under this section, banners may be used by arts and cultural institutions, educational institutions, governmental entities, organizers of public events, and within business or neighborhood districts.
- (B) **Review Authority.** The director of the Austin Transportation Department, referred to herein as “the director” or “transportation director,” is authorized to administer and enforce the requirements of this section. The director shall adopt program guidelines, including policies, design standards, technical specifications, and application requirements to aid in administering and enforcing this section.
- (C) **Street Banner Permits.**
- (1) **Permit Required.** A street banner may not be placed on or over public right-of-way unless the transportation issues a banner permit approving the banner. It is an offense to place a street banner without a banner permit or in a manner inconsistent with the terms of the banner permit or the requirements of this section.
 - (2) **Application Requirements.**
 - (a) To request approval of a street banner permit, an applicant must submit an application in the form required by the director and pay a street banner fee established by separate ordinance.
 - (b) The director may only accept an application for a street banner permit from a non-profit or not-for-profit organization, a governmental agency, or the organizer of City co-sponsored or other community event.
 - (3) **Approval Criteria.** The transportation director may approve a street banner permit if:
 - (a) The proposed banner complies with the requirements of this section, including program guidelines adopted by the director under Subsection (B);
 - (b) For banners proposed for placement on utility poles or in a utility easement, approval has been granted by the director of the applicable utility department as required under Subsection (C); and
 - (c) The transportation director determines that:
 - (i) displaying the banner at the proposed location will not compromise the safe operation of streets or utilities;
 - (ii) conflict with applicable regulations; or
 - (iii) otherwise pose a threat to public health, safety, and welfare.
 - (4) **Permit Conditions and Expiration.**
 - (a) The director may impose conditions on the issuance of a street banner permit and shall, at a minimum, specify the:
 - (i) time periods during which the banner may be displayed; and

- (ii) the location at which the banner may displayed.
 - (b) A street banner permit expires three months from the date of issuance, unless the director approves the permit for a longer term. The director may not approve a permit for a term of more than one year.
- (D) **Prohibitions and Restrictions.** A street banner permit may not be issued, nor may a street banner be displayed, in a manner inconsistent with the requirements of this subsection.
 - (1) **Content Limitations.** A message displayed on a street banner constitutes speech by the City of Austin, as a governmental body, and as such a street banner may not be approved or displayed for purposes inconsistent with established City policies. A street banner may not:
 - (a) Advertise a product, business, or service, other than a service offered to the public by a non-profit or governmental agency; or
 - (b) Be used for political campaigns or messaging or to display expressly religious messages.
 - (2) **Placement on Utility Poles.** In order to approve a permit to place a street banner on a utility pole or other utility infrastructure, the transportation director must obtain the approval of Austin Energy or other appropriate utility director. The utility director may rescind approval of a street banner at any time based on changing needs and conditions.
 - (3) **Installation, Maintenance and Removal.**
 - (a) A permittee is responsible for providing an approved street banner, which shall be installed by the City or its designated contractors using hardware approved by the director. If a street banner is damaged by weather or vandalism, the permittee may provide a replacement street banner to be installed by the director.
 - (b) The director shall maintain street banners installed under this section, including installation hardware, and may remove a banner as authorized by this section. No other person, including the permittee, may remove or maintain an installed street banner.
 - (c) The director may install poles or other structures specifically to display street banners and may authorize the use of City infrastructure for street banners, consistent with the requirements of this section.
- (E) **Enforcement and Administration.**
 - (1) **Revocation and Removal.**
 - (a) The director may revoke a street banner permit issued under this section at any time, based on changing needs and circumstances or on non-compliance with the requirements of this section or other applicable ordinance. Revocation of a street banner permit is not subject to the enforcement procedures in Article 23-2J (Enforcement).
 - (b) Upon revoking a permit, the director shall promptly remove the street banner and notify the applicant. The director may dispose of or donate a street banner if the permittee does not claim the banner for pick up within 10 days after the banner is removed.

- (c) The director may refund an application fee for a street banner permit that is revoked due to error by the City in approving the permit, but not where revocation is based on a subsequent change in conditions or impacts to public safety.
- (2) **Enforcement.** In addition to revoking a permit under Subsection (E)(1), the director may institute legal proceedings, issue citations, and take other appropriate actions deemed necessary to enforce the requirements of this section.

23-8C-3040 Standards for Special Event Signs

(A) **Purpose and Applicability.**

- (1) The council finds that:
 - (a) Special events present unique challenges because they involve a large number of temporary activities in which streets, parking lots, and buildings are used for activities not consistent with the established land uses for the area.
 - (b) Due to high attendance and concentration of people at special events in the City of Austin, particularly in the urban core, adequate signage identifying an event and directing participants to event activities is necessary to ensure safe flow of traffic and orderly operation of a special event.
- (2) Recognizing these challenges, this section establishes rules for signs at permitted special events. A permit may be issued under this subsection only for a sign to be used at a permitted special event that includes public streets which have been closed to traffic in accordance with Title 14 (Use of Streets and Public Property).

(B) **Projected Special Event Signs.** For a special event occurring in the Regional Center Sign District, the director shall issue a permit to install a projected special event sign in accordance with the requirements of this subsection.

- (1) No more than two projected event signs are permitted per special event.
- (2) A projected event sign may only be displayed on a single façade of a legally permitted building and may not exceed the lesser of 50 percent of the area of the façade or 6,000 square feet.
- (3) An application for a projected event sign must be submitted by the special event permit holder and must include letters of approval from the owners of the building where the projected event sign will appear.
- (4) A projected event sign must not:
 - (a) Shine, either fully or partially, on any property, building, or public right-of-way, including a street or sidewalk other than the building where the image will appear;
 - (b) Impair the vision of or distract a driver of a vehicle;
 - (c) Be controlled through social media or by any person other than the applicant; or
 - (d) Be displayed at any time outside the hours of 7:00 a.m. to 2:00 a.m. during the approved duration of the special event.

(C) **Non-Projected Special Event Signs.** A special event permit holder may install a non-projected special event sign in accordance with the requirements of this subsection.

- (1) A non-projected special event sign:
 - (a) may not exceed 96 square feet; and
 - (b) must be attached to:
 - (i) a fence located at the boundaries of the special event venue; or
 - (ii) the wall of a legally permitted permanent or temporary structure included within the boundaries of a special event venue, if the owner of the building or structure has agreed to placement of the sign.
 - (2) A non-projected special event sign may not impair the vision of or distract a driver of a vehicle.
- (D) **Revocation.** The director may revoke a permit for a special event sign approved under this section at any time, if operation of the sign is deemed to violate the requirements of this section or constitutes a threat to public health and safety. Revocation of a permit under this section is not subject to the procedures in Article 23-2J (Enforcement).

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Article 23-8D: Enforcement and Relief Procedures

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Division 23-8D-1: Enforcement

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23-8D-1010 Enforcement and Violations

- (A) The owner and operator of a sign, as well as the owner of land on which a sign is located, are subject to the provisions of this chapter and shall ensure that a sign complies with all applicable requirements.
- (B) The director may take all appropriate action to enforce the requirements of this chapter, including:
 - (1) revoking or suspending permits sign permits, issuing municipal court citations, and initiating proceedings for injunctive relief, as authorized under Article 23-2J (Enforcement);
 - (2) removing abandoned signs and abating hazardous signs in accordance with Section 23-8B-3030 (Hazardous Signs).
- (C) In addition to enforcement authorized under Article 23-2J (Enforcement), the director may remove abandoned signs, abate hazardous signs, and take other actions in accordance with this division.

23-8D-1020 Abandoned Signs

- (A) **Purpose and Applicability.** This section applies to on-premise sign faces located on vacant or unused property, which are deemed to be a threat to public health, safety, and welfare. A non-conforming off-premise sign is not subject to the requirements of this section, but may be abandoned and lose its legal nonconforming status as provided in Section 23-8B-4020 (Termination of Nonconforming Signs).
- (B) **Grounds for Abandonment.**
 - (1) If a site is vacated or ceases to be used, all on-premise sign faces located on the site must be removed, covered, or replaced with an opaque panel within 30 days from the date that the site was vacated or use of the site ceased.
 - (2) If a site is continuously vacant for a period of six months, all on-premise signs and associated support structures located on the property are deemed to be abandoned and must be removed within 45 days. The director may, at the request of an applicant, extend the deadline for removal of a sign structure by no more than an six additional months.
- (C) **Responsibility for Compliance.** The owner of a property containing an abandoned sign is responsible for taking actions as required under Subsection (B).

23-8D-1040 Penalties for Signs on Public Property

(A) Fines per Conviction.

- (1) Any person found responsible for violating the requirements of Section 23-8B-3020 (Signs Prohibited in Public Easements and Right-of-Way) shall be sentenced to a fine of not less than:
 - (a) \$ 50 for a first conviction;
 - (b) \$ 200 for a second conviction within any 24-month period; and
 - (c) \$ 400 for a third or subsequent conviction within any 24-month period.
- (2) To determine the minimum fine under Subsection (A), one or more fines assessed during a 24-hour period beginning at midnight and ending at 11:59 p.m. constitute a single conviction.

(B) Responsibility to Remove.

- (1) A sign placed on public property in violation of Section 23-8B-3020 (Signs Prohibited in Public Easements and Right-of-Way) must be removed by the sign owner, sign user, or property owner.
- (2) In addition to other enforcement remedies, failure to remove the sign within 48 hours after being notified of the offense in writing by the director or building official is subject to a civil penalty of \$200 per day for every day or part of a day the sign is in place.

Division 23-8D-2: Variances and Appeals

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23-8D-2010 Board of Adjustment Sign Variances

- (A) **Purpose and Applicability.** This section authorizes the Board of Adjustment, acting as a sign review board, to approve variances from regulations of this chapter where the board finds that a regulation prevents adequate on-premise signage based on unique site conditions. The board's authority under this section derives from the Local Government Code, Chapter 216, Subchapter Z, and does not extend to regulations related to off-premise signs.
- (B) **Application Requirements and Procedures.** A sign owner may request a variance from this chapter by submitting an application in accordance with the application requirements and other procedures established under Division 23-2F-1 (Variances and Special Exceptions).
- (C) **Approval Criteria and Requirements.**
- (1) The board may approve a variance from a requirement of this chapter if, by a majority vote of all authorized members:
 - (a) the board finds that granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated; and
 - (b) the board makes one or more of the following additional findings:
 - (i) the variance is necessary because enforcement of the requirement prevents any reasonable opportunity to provide adequate signs on the site due to unique site features, such as dimensions, landscaping, or topography;
 - (ii) granting the variance will not have a substantially adverse effect on neighboring properties; or
 - (iii) granting the variance will not substantially conflict with the purposes of this chapter.
 - (2) The board may impose reasonable conditions on the approval of a variance under this section, consistent with the requirements of Division 23-2F-1060 (Conditions and Modifications).
 - (3) Following approval of a variance under this section, the director or building official shall record the terms of the variance and any conditions thereto in the appropriate City files or database.

23-8D-2020 Administrative Sign Modifications

- (A) **Purpose and Applicability.** This section authorizes the director or building official to administratively approve an on-premise sign in excess of the size or height restrictions imposed under this chapter. Authority under this section derives from the Local Government Code, Chapter 216, Subchapter Z, and does not authorize variances allowing an off-premise sign.
- (B) **Application Requirements.** To request relief under this section, an applicant must submit an application on a form approved by the director under Division 23-2B-1 (Application Requirements).
- (C) **Approval Criteria and Requirements.**
 - (1) The director or building official may authorize installation of a sign that exceeds the applicable size or height restriction by up to 5 percent of the maximum size or height prescribed by this chapter after determining that:
 - (a) the sign owner or user has demonstrated the existence of practical difficulties in complying with this chapter;
 - (b) a unique circumstance exists that makes compliance with the requirements of this chapter impractical;
 - (c) the modification is in conformity with the purposes of this chapter; and
 - (d) the modification does not lessen public safety requirements.
 - (2) The building official shall record the details of a modification authorized under this section in the City files.

23-8D-2030 Appeals

- (A) **Purpose and Applicability.** This section authorizes appeals related to the administration and enforcement of this chapter.
- (B) **Contractor's Registration Appeals.** An appeal related to the denial, revocation, or suspension of a registration under Section 23-8A-2020 (Contractor's Registration) may be filed with the Building & Fire Code Board of Appeals, consistent with the procedures established under Article 23-2I (Appeals).
- (C) **Enforcement Appeals.**
 - (1) An order by the director or building official revoking or suspending an on-premise sign installation permit or related approval under this chapter may be appealed to the Board of Adjustment, consistent with the procedures established in Article 23-2J-4020 (Appeal of Enforcement Orders).
 - (2) An order by the director or building official denying, revoking, or suspending a billboard registration or other approval for a non-conforming off-premise sign may be appealed to the Board of Adjustment, which shall hear and decide the case consistent with the requirements of Division 23-2J-4 (Appeal Procedures).

- (D) **Appeals Relating to Off-Premise Signs.** A decision by the director or building official relating to a non-conforming off-premise sign, including a determination under Section 23-8B-4020(C) (Termination of Nonconforming Signs), may be appealed to the Board of Adjustment consistent with applicable procedures established in Section 23-2G-1040 (Appeal of Decision on Nonconforming Status) and Section 23-4B-2030 (Administrative Appeal).

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Transportation



[PC Motion #100](#)

Recommend approval of Chapter 23-5, 23-7, 23-8, 23-9, 23-10, 23-12, and 23-13 with amendments previously approved

In Article 23-13: Definitions and Measurements, revise the definition of Microbrewery from 15,000 barrels to 5,000 barrels, and review Draft 3 for any terms that have been left undefined, using motions from Planning Commission CodeNEXT Draft 3 Deliberation Spreadsheet as guidance.

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Article 23-9A: General Provisions

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Division 23-9A-1: Policy and Administration

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23-9A-1010 Purpose and Applicability

(A) **Purpose.** The purpose of this chapter is to:

- (1) Facilitate compact and connected growth and development;
- (2) Promote the use of green infrastructure to protect environmentally sensitive areas and integrate nature into the built environment;
- (3) Increase housing affordability and community health through a robust and accessible transportation network;
- (4) Promote complete streets to serve all roadway users, pedestrians, bicyclists, transit riders, and motorists regardless of age or ability;
- (5) Provide safe and efficient movement of people, goods, and services; and
- (6) Integrate streets into the existing and future context of adjacent land uses and the larger built environment.

(B) **Applicability; Summary of Chapter.** Except as provided in Subsection (C), the requirements of this chapter apply in the City's planning jurisdiction at any stage of the development process requiring the dedication or construction of streets or transportation facilities or contributions towards a development's impact on the transportation system. In general:

- (1) Division 23-9A-2 (Proportionality of Transportation Infrastructure Requirements) applies if contributions towards municipal transportation infrastructure is required under this chapter;
- (2) Article 23-9B (Right-of-Way Dedication and Reservation) authorizes the City to require the dedication and improvement of public right-of-way or to reserve land for future right-of-way acquisition by the City or another governmental entity;
- (3) Article 23-9C (Transportation Review and Analysis) requires analyzing how vehicle trips generated by certain new development impact the City's transportation system and how those impacts may be mitigated;
- (4) Article 23-9D (Development Conditions and Mitigation) authorizes the City to impose conditions on development approval in order to mitigate the impacts of development on the City's transportation system;
- (5) Article 23-9F (Street Design) governs the design and construction of public streets.

- (6) Article 23-9F (Right-of-Way Construction) applies to any construction or installation in the public right-of-way;
 - (7) Article 23-9F (Street Layout and Access) applies to the placement and configuration of public streets and access onto a public street; and
 - (8) Article 23-9G (Road Utility Districts) applies to petitions submitted to the City by a road utility district regarding the conveyance of public facilities.
- (C) **Subdivisions in Portion of the Extraterritorial Jurisdiction within Travis County.** City Code Title 30 (Austin/Travis County Subdivision Regulations) establishes transportation requirements for a subdivision in the portion of the City's extraterritorial jurisdiction that is within Travis County. Title 30 supersedes the requirements of this chapter to the extent of a conflict.

23-9A-1020 Review Authority

Authority and responsibility for implementing this chapter is delegated to the director of the Austin Transportation Department, which is referred to throughout this chapter as "the director." However, the city manager may from time to time delegate particular functions under this chapter to one or more other City departments, which shall control over the general delegation in this subsection.

23-9A-1030 Transportation Criteria Manual

- (A) The director shall adopt a Transportation Criteria Manual to aid in administering and enforcing this chapter. The manual shall be adopted under Chapter 1-2 (Adoption of Rules) and must be consistent with the requirements of this chapter.
- (B) The Transportation Criteria Manual may include standards for:
 - (1) The design and construction of:
 - (a) public streets, sidewalks, bikeways, and other transportation facilities;
 - (b) driveways, curb cuts, and other means of accessing public right-of-way;
 - (c) parking facilities, including on-street parking and parking lots and garages; and
 - (d) structures and improvements in public right-of-way, which shall be developed in consultation with the Public Works Director;
 - (2) Dedication and alignment of right-of-way;
 - (3) Traffic control devices;
 - (4) Proportionality determinations required under Division 23-9A-2 (Proportionality of Transportation Infrastructure Requirements), including standardized procedures for making determinations and criteria for identifying required improvements with an essential nexus to the impacts of proposed development;
 - (5) Transportation analyses required under Article 23-9C (Transportation Review and Analysis);
 - (6) Transportation demand management plans required under Section 23-9C-2030 (Transportation Demand Management), including trip reductions associated with

particular demand management tools and standards for compliance, administration, and enforcement;

- (7) Street design and layout, including methods for achieving consistency with block-length standards at different stages of development;
- (8) Criteria for transit operations and recommended design techniques for integrating transit infrastructure into development; and
- (9) Other provisions necessary for the administration and enforcement of this chapter.

23-9A-1040 Setbacks and Building Lines

- (A) A setback line prescribed under this chapter is measured from the boundary of the right-of-way adjacent to the property.
- (B) In addition to requiring the dedication or reservation of right-of-way under this article, the City may establish building lines on right-of-way consistent with procedures established in the Local Government Code, Chapter 214, Subchapter D.

23-9A-1050 Definitions

This section defines words and phrases that are used primarily in this chapter. For definitions applicable throughout this Title, see Division 23-13A (Definitions and Measurements).

MAJOR STREET. A street that is designated in the Transportation Plan or in a street network plan approved by the county in which the street is located.

MUNICIPAL TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS or TRANSPORTATION INFRASTRUCTURE IMPROVELMENTS. A transportation improvement that mitigate the impacts of development on the City's transportation system, including the construction or funding of system improvements and the dedication or improvement of right-of-way beyond the boundaries of a development or in excess of that required by generally applicable design standards. The term does not include dedications or improvements to directly serve a development under generally applicable development regulations.

SYSTEM IMPROVEMENT. An improvement to the transportation system.

TRANSPORTATION DEMAND MANAGEMENT PLAN or TDM PLAN. A plan approved by the director of the Austin Transportation Department under Section 23-9C-2030 (Transportation Demand Management) to facilitate reductions in vehicle trips generated by development.

TRANSPORTATION PLAN. The Austin Metropolitan Area Transportation Plan, or its successor plan, and other multi-modal transportation plans referenced in the Imagine Austin Comprehensive Plan, including the CAMPO Mobility Plan, Sidewalk Master Plan, Bicycle Plan, Urban Trails Plan, and adopted corridor plans.

TRANSPORTATION SYSTEM. A component of the overall transportation network designed for movement of people and goods, including arterials and collector streets, sidewalks, trails, and other multi-modal transportation facilities identified in the Transportation Plan. The term excludes transportation facilities internal to a development and required to directly serve the development.

URBAN TRAILS. A citywide network of non-motorized, multi-use pathways that are used by bicyclists, walkers, and runners for both transportation and recreation.

Division 23-9A-2: Proportionality of Transportation Infrastructure Requirements

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23-9A-2010 Purpose and Applicability

- (A) The purpose of this division is to ensure that any condition to development approval requiring a developer or landowner to dedicate, construct, or fund municipal transportation infrastructure improvements:
 - (1) Does not exceed the roughly proportionate amount that may reasonably be attributed to the development based on impact of the development; and
 - (2) Complies with other applicable constitutional and statutory requirements.
- (B) The requirements of this division apply to any contributions towards municipal transportation infrastructure improvements required as a condition to development approval under Article 23-9B (Right-of-Way Dedication and Reservation), Article 23-9C (Mitigation of Transportation Impacts), or another provision of this Title.

23-9A-2020 Proportionality Determination

- (A) If the City conditions approval of a development application on a requirement that a developer bear a portion of the costs of municipal transportation infrastructure improvements by dedicating right-of-way, paying transportation mitigation fees, or constructing transportation system improvements, the applicant's portion of those costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to impacts of the proposed development as determined by a professional engineer licensed under Chapter 1001, Occupations Code, and retained by the City.
- (B) The director shall issue a written determination of an applicant's roughly proportionate share of transportation infrastructure costs attributable to a proposed development prior to approval of an application for which dedication of right-of-way or the construction or funding of system transportation improvements is required. A determination issued under this section:
 - (1) Need not be made to a mathematical certainty, but is intended to be used as a tool to fairly assess the roughly proportionate impacts of a development based on the level of transportation demand created by a proposed development relative to the capacity of existing public infrastructure;
 - (2) Shall be completed in compliance with generally recognized and approved measurements, assumptions, procedures, formulas, and development principles; and
 - (3) Shall state the roughly proportionate share attributable to the property owner for the dedication and construction of transportation-related improvements necessary to ensure an effective and safe transportation system that is sufficient to accommodate the traffic generated by a proposed development.

- (C) If a proposed development is subject to a proportionality determination under this section, the director shall identify in writing all transportation infrastructure improvements required in conjunction with approval of the development application. The infrastructure improvements may include right-of-way dedication, the construction or funding of system improvements, or any combination thereof, in an amount not to exceed the total roughly proportionate share as established by the proportionality determination.
- (D) To aid in making a proportionality determination and identifying required infrastructure improvements, the director may:
 - (1) Adopt administrative guidelines setting forth assumptions, procedures, formulas, and development principles used in making a proportionality determination; and
 - (2) If an applicant contests the director's proportionality determination, require an analysis under Article 23-9C (Transportation Review and Analysis) that would otherwise not be required or other information related to traffic and safety impacts.

Article 23-9B: Right-Of-Way Dedication and Reservation

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23-9B-1010 Purpose and Applicability

- (A) This article establishes requirements for the dedication and reservation of public right-of-way, in order to ensure that:
 - (1) New development is supported by adequate transportation infrastructure;
 - (2) The right-of-way needs generated by new development are identified and provided for at the earliest stage of the development process in which those needs can be reasonably evaluated; and
 - (3) A developer or landowner is not required to contribute more towards municipal transportation infrastructure than the roughly proportionate share attributable to the development.
- (B) The requirements of this article apply to new development or redevelopment for which right-of-way needs may reasonably be assessed.

23-9B-1020 Nexus and Proportionality Required

- (A) **Essential Nexus.**
 - (1) An essential nexus exists between the transportation demand generated by new development and the dedication and improvement of streets or other transportation facilities required to directly serve new development under generally applicable standards of this Title.
 - (2) In order to require dedication of right-of-way or street improvements for municipal transportation infrastructure required to mitigate the impact of development on the City's transportation system, the director must determine that an essential nexus exists between the demand generated by the proposed development and the required right-of-way dedication or improvement.
- (B) **Rough Proportionality.** If right-of-way dedication or improvement is required for municipal transportation infrastructure, the cost of the dedication may not exceed the development's roughly proportionate share as determined under Division 23-2A-2 (Proportionality of Transportation Infrastructure Requirements).

23-9B-1030 Right-of-Way Variance

- (A) **Purpose and Applicability.** If a development application requires approval by the Land Use Commission or city council, an applicant may request a variance under this section from a requirement to dedicate, reserve, or improve right-of-way. The purpose of the variance procedure authorized by this section is to provide for consideration of unique impacts that requirements of this chapter may have on property relative to the transportation needs generated by proposed development.
- (B) **Application Requirements.** A request for a variance under this section must be:
- (1) Submitted in a manner approved by the director and include any information required by the director to evaluate the variance request; and
 - (2) Associated with a pending development application, unless the director determines that the amount of public right-of-way that would be required for dedication is 15 percent or more of a project site's total land area.
- (C) **Standards for Review and Approval.**
- (1) **Variance Criteria.** The Land Use Commission or city council may grant a variance under this section if it determines that the right-of-way required to be dedicated, improved, or reserved would:
 - (a) Deprive a property of reasonable use;
 - (b) Result in unreasonable hardship due to unique topographic or other physical features of the property; or
 - (c) Fail to satisfy the applicable requirements of Section 23-9A-1020 (Nexus and Proportionality Required), if the dedication or improvement is required for municipal transportation infrastructure.
 - (2) **Effect of Variance.** In approving a variance under this section, the Land Use Commission or city council may:
 - (a) Reduce the amount of right-of-way required to be dedicated or the contribution required under this chapter for municipal transportation infrastructure improvements;
 - (b) Modify requirements pertaining to the location or alignment of a right-of-way dedication; and
 - (c) Impose reasonable conditions directly related to the impacts of the variance, provided that transportation infrastructure improvements may not be required in excess of an applicant's roughly proportionate share as determined under Division 23-9A-2 (Proportionality of Transportation Infrastructure Requirements).
 - (3) **Findings Not Required.** The Land Use Commission or city council is not required to make formal findings to approve a variance under this section. Action approving a development application for which a variance is required under this section constitutes approval of the variance and a finding that the criteria in Subsection (C)(1) have been met.
- (D) **Supplemental Remedy.** The variance procedure authorized under this section is supplemental, and in addition to, any other procedures available under this Title or state law to obtain relief from a requirement to dedicate or improve right-of-way or provide.

23-9B-1040 Administrative Modifications

- (A) The director may grant an administrative modification to a requirement of this chapter only where specifically authorized by this chapter.
- (B) The procedures and criteria applicable under Section 23-9B-1030 (Right-of-Way Variance) apply to the director's review and decision on a request for administrative modification under chapter.
- (C) An applicant may appeal a decision by the director to deny an administrative modification under this section to the Land Use Commission in accordance with procedures established in Article 23-2I (Appeals).

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23-9B-2010 Dedication and Improvement Required

(A) Dedication of Right-of-Way and Construction of Improvements.

- (1) Right-of-Way Dedication. A landowner shall dedicate all public right-of-way required to adequately serve the transportation needs of proposed development consistent with the standards of this Title. The amount, location, and alignment of right-of-way to be dedicated shall conform to the Transportation Plan, an approved collector plan, or an approved capital improvement project and may be required within, adjacent to, or outside the boundaries of a proposed development.
- (2) Right-of-Way Improvements. Construction of all required street improvements and transportation facilities, consistent with the applicable standards of this Title, is required within public right-of-way needed to directly serve a proposed development.
- (3) Municipal Transportation Infrastructure. The cost of any right-of-way dedication or improvements required for municipal transportation infrastructure may not exceed the development's roughly proportionate share as determined under Division 23-2A-2 (Proportionality of Transportation Infrastructure Requirements). If a transportation impact analysis or neighborhood transportation impact analysis is required, only right-of-way dedications or improvements identified in the analysis may be required.

(B) Adjacent Roadway Improvements.

- (1) Adjacent and Abutting Streets. For a street required adjacent to or abutting a proposed development, the City may require that up to the entire right-of-way be dedicated and improved to City design standards depending on:
 - (a) the impact of proposed development on the street;
 - (b) the timing of proposed development relative to the anticipated need for the street; and
 - (c) the likelihood that adjoining property will develop in a timely manner.
- (2) Frontage Roads. If a frontage road or service street is required for state or federally designated highways, the entire abutting right-of-way shall be dedicated and improved to applicable design standards and specifications.

- (C) **Substandard Street Improvements.** If an existing street that does not meet applicable right-of-way or design standards abuts a proposed development, the City may require the property owner to dedicate the right-of-way for a standard street width and improve the street consistent with the dimensions and specifications in the applicable Transportation Plan, approved collector plan, or capital improvement project. The extent

of improvements to be required shall be based on the factors described in Subsection (B) (1).

23-9B-2020 **Timing of Dedication and Construction**

(A) **Determination of Right-of-Way Dedication and Improvements.**

- (1) **Development Applications.** The director shall require an initial demonstration that a proposed development will be adequately served by transportation infrastructure when the first application depicting a specific plan for development is submitted. Depending on the nature of the proposed development and the adequacy of existing transportation infrastructure, an evaluation of right-of-way needs under this section may be required for:
 - (a) a preliminary plan or final subdivision plat;
 - (b) a site plan application or revision;
 - (c) an agreement related to annexation, including a development agreement or creation of a utility district; or
 - (d) other development applications depicting a specific development plan for which right-of-way needs may be reasonably assessed.
- (2) **Zoning Applications.** In addition to the applications described in Subsection (A)(2), the director shall require a demonstration that development proposed in an application for a planned unit development shall be adequately served by transportation infrastructure. For other zoning applications, the director may require an assessment of right-of-way needs if:
 - (a) The property proposed for rezoning is:
 - (i) subdivided, or exempt from the requirement to subdivide, and requires no further development approvals for which dedication of right-of-way may be required;
 - (ii) fronts a street or highway proposed for widening under the Transportation Plan or a capital improvement project; or
 - (b) Approval of the rezone would substantially increase the intensity of development allowed on the property to the extent that right-of-way needs may be reasonably assessed without a site plan, subdivision, or other development application.

- (B) **Deferral of Obligation.** The City may, at the request of an applicant or on its own initiative, defer an obligation to dedicate or improve public right-of-way required to serve new development until approval of a subordinate development application or, for a development proposed in phases, until a subsequent phase of development. As a condition to deferring an obligation, the City may require a developer or landowner to execute an agreement specifying the time for dedication and improvement of public right-of-way consistent with the requirements of this Title.

23-9B-2030 Approval Conditioned on Dedication

- (A) Where right-of-way needs have been determined in connection with a development or zoning application, approval of the application shall be conditioned on dedicating the required right-of-way and making required transportation improvements concurrent with development authorized by the application or at a subsequent stage of the development process as determined under Section 23-9B-2020 (Timing of Dedication and Construction).
- (B) A landowner required to dedicate or improve public right-of-way shall make the dedications and improvements in accordance with the requirements of this Title, in a manner approved by the director. Public right-of-way is required to be dedicated on the face of a subdivision plat, unless conveyance by deed is approved under Section 25-5B-1080 (Dedication of Public Right-of-Way).

23-9B-2040 Right-of-Way Alignment

- (A) **Timing of Review.** The director shall determine the required alignment of right-of-way in accordance with this section during review of:
 - (1) a development application for which dedication or improvement of right-of-way is required;
 - (2) an application for a variance under Section 23-9B-1030 (Right-of-Way Variance); or
 - (3) a waiver request under Section 23-9B-3040 (Waiver of Right-of-Way Reservation).
- (B) **Standards for Establishing Right-of-Way Alignment.** In establishing a right-of-way alignment, the director shall use the criteria described in this subsection.
 - (1) **Technical Requirements.** The director shall base right-of-way alignment on engineering criteria related to the safe use and maintenance of public right-of-way, including grade, sight distance, turning radii, curvature, existing green infrastructure, and the existence of flood plain or wildfire hazards. These criteria are primary considerations to be used in determining right-of-way alignment and are controlling over other criteria in the event of conflict.
 - (2) **Planning Criteria.** To the greatest extent possible, the director shall require right-of-way alignment to conform with:
 - (a) The alignment established in the Transportation Plan, an approved collector plan, or a capital improvement project;
 - (b) In an area designated for:
 - (i) a state roadway project, the alignment established by the Texas Department of Transportation or its authorized agent; or
 - (ii) a county project, the alignment established by the appropriate county or their authorized agent; and
 - (c) For an existing or platted street, the alignment based on:
 - (i) the existing centerline established before an additional dedication from the opposite side of the right-of-way occurs;

- (ii) if the centerline of the street is proposed to be shifted from its present alignment, the proposed right-of-way centerline; or
- (iii) if the alignment for a street cannot be determined under Subsection (B)(2)(c) (i)-(ii), the right-of-way shall be established on each side of the centerline of the existing street.

Division 23-9B-3: Right-Of-Way Reservation

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23-9B-3010 Purpose and Applicability

The purpose of reserving right-of-way is to avoid conflicts between new development and future transportation improvements for which acquisition of right-of-way may be required by the City or another governmental entity. The City may require reservation of right-of-way, consistent with the requirements of this division, for any development application listed in Section 23-9B-2020 (Timing of Dedication and Construction).

23-9B-3020 Reservation of Right-of-Way

- (A) The director may, as a condition to approval of a site plan or subdivision, require the reservation of right-of-way that is reasonably likely to be acquired for public use.
- (B) Reservation of right-of-way may only be required for land located along a roadway designated in the Transportation Plan, an approved collector plan, or a capital improvement project, which shall be used to determine the location, extent, and alignment of the reserved right-of-way.

23-9B-3030 Development Restrictions in Reserved Right-of-Way

- (A) **General Restriction.** Unless a waiver is approved under Section 23-9B-3040 (Waiver of Right-of-Way Reservation), a person may not erect a structure or make an improvement in reserved right-of-way except as authorized under this section.
- (B) **Temporary Use of Reserved Right-of-Way.** At the request of a landowner, the director may issue a permit under this subsection to authorize the use of reserved right-of-way for a temporary structure or improvement, including a parking area, detention pond, landscaping, or sign.
 - (1) Application Requirements. A permit request must be submitted:
 - (a) Concurrent with a development application proposing construction in the reserved right-of-way, except that a development application is not required if the size of reserved area is 15 percent or more of the property; and
 - (b) In a manner prescribed by the director, including any information required by the director to evaluate the request.
 - (2) Permit Criteria and Conditions.

- (a) In reviewing a permit request under this section, the director shall consider the nature and extent of improvements proposed within the reserved right-of-way and the likelihood that the area will be acquired for public use.
- (b) In approving a permit for temporary use of reserved right-of-way, the director:
 - (i) Shall establish an expiration date by which all structures and improvements must be removed;
 - (ii) May impose reasonable conditions on the placement or construction of any authorized structures or improvements; and
 - (iii) May, depending on the nature and extent of proposed improvements, require an applicant to post fiscal surety for site restoration under Division 23-2B-3 (Fees and Fiscal Surety).
- (3) Violations and Enforcement. It shall be an offense to use, operate, or maintain a structure or improvement in reserved right-of-way except as authorized by a permit issued under this section. A violation of this requirement may be enforced in the manner prescribed for unauthorized use of public right-of-way under City Code Chapter 14-11, Article 3 (Enforcement).
- (C) **Responsibility to Replace Required Improvements.** If a permit authorizing temporary use of reserved right-of-way expires, a landowner must relocate or replace any improvements required by this Title or other applicable law from the reserved right-of-way to the remainder of the property.

23-9B-3040 Waiver of Right-of-Way Reservation

- (A) **Purpose and Applicability.** This section provides a means by which a landowner may require the City to either acquire land reserved for right-of-way or release the reservation and permit development to occur under generally applicable standards of this Title.
- (B) **Application and Notice Requirements.**
 - (1) Application Requirements. A request for waiver of reserved right-of-way must be submitted:
 - (a) Concurrent with a development application proposing construction in the reserved right-of-way, except that a development application is not required if the size of the reserved area is 15 percent or more of the property; and
 - (b) In a manner prescribed by the director, including any information required by the director to evaluate the request.
 - (2) Notice Requirements. If an application covers an area designated as a state roadway project, the director shall:
 - (a) Notify the Texas Department of Transportation that:
 - (i) a request for a waiver has been filed; and
 - (ii) if applicable, that a development application has been filed proposing construction in a reserved right-of-way or setback from reserved right-of-way; and
 - (b) Request field notes from the Texas Department of Transportation.

(C) Action on Waiver Request.

- (1) Dedication of Reserved Right-of-Way.
 - (a) If a waiver request is associated with a development application, the director shall determine:
 - (i) the portion of the reserved right-of-way required for an appropriate street alignment under Section 23-9B-3040 (Right-of-Alignment); and
 - (ii) whether the City can require that portion of the reserved right-of-way to be dedicated under Division 23-9B-2 (Dedication of Right-of-Way) as a condition to development approval.
 - (b) If dedication is required, the director shall deny the waiver request and may only approve the development application on the condition that right-of-way is dedicated and improved as required under Section 23-9B-2030 (Approval Conditioned on Dedication).
 - (c) If dedication is not required, the director shall determine whether the property may be acquired by the City under Subsection (C)(2).
- (2) Acquisition of Reserved Right-of-Way.
 - (a) The director shall determine whether a reserved area may feasibly be acquired by the City through condemnation or purchase if a waiver request is:
 - (i) accepted for review without a development application; or
 - (ii) submitted with a development application, and the director determines that dedication cannot be required as a condition of approval under Section 23-B-2030 (Approval Conditioned on Dedication).
 - (b) If the director determines that the City cannot acquire the right-of-way, the director shall grant the waiver and release the right-of-way reservation.
 - (c) If the director determines that the City may feasibly acquire the reserved right-of-way, the director shall:
 - (i) deny the waiver request and disapprove any pending development applications associated with the request or submitted within six months from the date of the denial; and
 - (ii) if the City has not acquired the reserved right-of-way after six months from the date the waiver is denied, approve the waiver, release the reserved right-of-way, and continue processing any pending development applications.

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Article 23-9C: Transportation Review and Analysis

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Division 23-9C-1: General Provisions

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23-9C-1010 Purpose and Applicability

- (A) This article establishes procedures for analyzing and mitigating the impacts of new development on the transportation system by:
 - (1) Determining the extent to which streets and other municipal transportation infrastructure are impacted by new development; and
 - (2) Requiring new development to provide transportation infrastructure improvements and other mitigation necessary to address the impacts of new development.
- (B) Requirements for analyzing and mitigating the impacts of new development on the transportation system vary depending on the scope and intensity of new development. In general:
 - (1) Division 23-9C-2 (Comprehensive Transportation Review) is the highest level of transportation review and applies to new development anticipated to generate impacts of at least 1,000 vehicle trips per day or 100 peak hour trips;
 - (2) Division 23-9C-3 (Neighborhood Transportation Impact Analysis) applies to new development anticipated to generate 300 or more new vehicle trips; and
 - (3) Division 23-9C-4 (Development Conditions and Mitigation) establishes procedures by which the director may condition development approval on mitigation measures identified during transportation review.

23-9C-1020 Trip Calculation

- (A) To determine the vehicle trips associated with a land use or mix of uses, the director shall base the calculation on the Institute of Transportation Engineers (ITE) Trip Generation Manual and standards adopted in the Transportation Criteria Manual.
- (B) To determine a street's existing trip count, the director shall rely on most recent data or establish a current trip count based on generally accepted guidelines.

23-9C-1030 Waiver of Transportation Analysis

- (A) **Waiver Authorized.** The director may waive transportation review required by Division 23-9D-2 (Comprehensive Transportation Review) or Division 23-9D-3 (Neighborhood Transportation Impact Analysis) in accordance with this section. An applicant must submit a waiver request in a manner approved by the director and include any information required by the director to evaluate the request under Subsection (B).

- (B) **Waiver Criteria.** To grant a waiver, the director must find that:
- (1) Existing or previously identified transportation improvements and mitigation measures are sufficient to accommodate vehicle trips that a proposed development is likely to generate; or
 - (2) Trip reductions required by an approved TDM plan under Section 23-9C-2030 (Transportation Demand Management) reduce the total number of trips generated by a development to below the level for which analysis is required.
- (C) **Waiver Conditions.** If a project is anticipated to generate more than 2,000 vehicle trips per day, without considering trip reductions approved under Section 23-9C-2030 (Transportation Demand Management), the director may condition a waiver under this section on a requirement to fund or construct improvements or make changes to the proposed development that are necessary to satisfy the criteria in Subsection (B).

Division 23-9C-2: Comprehensive Transportation Review

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23-9C-2010 Purpose and Applicability

- (A) The purpose of comprehensive transportation review is to ensure that, for new development with the greatest potential impact to the City's transportation system, an applicant for development approval:
 - (1) Provides thorough and high-quality analysis of:
 - (a) Projected multi-modal traffic generated by a proposed development;
 - (b) The effect of proposed development on the transportation network near the development; and
 - (c) Potential operational, geometric, or safety impacts of the development, as well as recommendations for appropriate mitigation; and
 - (2) Identifies transportation infrastructure improvements sufficient to mitigate the impacts of new development on the transportation system.
- (B) Compliance with this division is required if a proposed development is anticipated to generate impacts of at least 1,000 vehicle trips per day or 100 peak hour trips, after deducting any trip reductions approved by the director under Section 23-9D-2030 (Transportation Demand Management).
- (C) A public primary or secondary education facility is exempt from this division.

23-9C-2020 Transportation Impact Analysis

- (A) **Purpose and Scope of TIA.**
 - (1) Purpose. The purpose of transportation impact analysis is to assess the impact of vehicle trips generated by new development on the City's transportation system and identify potential options to mitigate those impacts.
 - (2) Scope. An applicant must propose a geographic area and scope to be used as a basis for the analysis, which must be approved by the director before the analysis is submitted. The geographic area must be consistent with trip distributions established by the director and must include all major intersections immediately adjacent to a proposed development, as well any other intersections anticipated to accommodate 50 or more peak hour trips generated by the proposed development.

- (B) Contents. A transportation impact analysis must be consistent with the scope approved by the director under Subsection (A) and must comply with the requirements described in this subsection.
- (1) A transportation impact analysis must be prepared in accordance with the Transportation Criteria Manual and must establish:
 - (a) trips to be generated by the proposed development;
 - (b) assignment of such trips to the street network analyzed;
 - (c) the capacity of affected streets before and after the proposed development;
 - (d) deficient streets; and
 - (e) specific recommendations for municipal transportation infrastructure improvements and traffic control modifications that bear an essential nexus to the proposed development and would mitigate identified impacts on the City's transportation system.
 - (2) A transportation impact analysis must be:
 - (a) prepared by or under the supervision of a professional engineer licensed in the state of Texas; and
 - (b) stamped by the professional engineer who prepared or supervised preparation of analysis.
- (C) Timing of Submittal.
- (1) Initial TIA. If a proposed development meets the trip threshold established in Section 23-9D-2010 (Purpose and Applicability), an initial transportation impact analysis:
 - (a) must be submitted with an application for a site plan, subdivision, or planned unit development zoning district; and
 - (b) may be submitted, at the applicant's discretion, or as required by the city council, for a zoning application other than a planned unit development.
 - (2) Updated TIA. The director may require an updated transportation impact analysis if a subsequent application associated with the development:
 - (a) proposes a more intensive land use or an increase in unit totals that is inconsistent with assumptions used in the initial transportation impact analysis; or
 - (b) is submitted more than five years after the initial transportation impact analysis was approved.

23-9C-2030 Transportation Demand Management

- (A) Purpose and Applicability.
- (1) A transportation demand management (TDM) plan is a coordinated set of strategies for minimizing the number of vehicle trips likely to be generated by a proposed development. The purpose of a TDM plan is to identify options for reducing the number of vehicle trips a proposed development is likely to generate, which may in turn reduce the level of transportation review and mitigation required under this chapter.

- (2) A TDM plan is required for a development application that is subject to comprehensive transportation review under this division. If a development application is not subject to comprehensive transportation review, an applicant may request to submit a TDM plan in lieu of meeting other applicable requirements where authorized by this chapter.
- (B) Contents of TDM Plan. A TDM plan must be submitted in a manner approved by the director and must include:
 - (1) One or more standard trip-reduction measures established in the Transportation Criteria Manual, which may include:
 - (a) pedestrian-oriented design elements;
 - (b) enhanced access to public transportation;
 - (c) facilities conducive to bicycling and access to multi-use trails;
 - (d) parking management that incentivizes use of shared, multi-passenger vehicles and reduced single-occupancy trips; and
 - (e) information to facilitate transportation options other than single-occupancy vehicles; or
 - (2) Trip-reduction measures tailored to a particular development, as approved by the director consistent with the Transportation Criteria Manual.
- (C) Timing of Submittal.
 - (1) Concurrent with TIA. Except as provided in Subsection (B)(2), a TDM plan that meets the requirements of this section must be submitted concurrent with a transportation impact analysis required under Section 23-9C-2020 (Transportation Impact Analysis).
 - (2) In Lieu of TIA.
 - (a) The director may allow submittal of a proposed TDM plan in lieu of a transportation impact analysis if the director finds that implementing the TDM plan is sufficient to reduce vehicle trips generated by a proposed development to a level below the threshold established in Section 23-9C-2010 (Purpose and Applicability).
 - (b) The director shall allow submittal of a proposed TDM plan in lieu of transportation impact analysis if a proposed development is anticipated to generate less than 2,000 trips per day. A TDM plan submitted under this paragraph shall be limited to reasonable design enhancements and other cost-effective strategies that can be efficiently integrated into project design.
 - (c) Compliance with a TDM plan approved under Paragraphs (B)(2)(a)-(b) shall be required as a condition to approval of a development application under Division 23-9C-4 (Development Conditions and Mitigation) and may be subject to conditions under Section 23-9C-1030 (Waiver of Transportation Review).
- (D) Standard for Approval. The director shall approve a transportation demand management plan if it meets the requirements of the Transportation Criteria Manual and includes reasonable strategies for reducing transportation demand based on the layout, location, and context of a proposed development.
- (E) Effect of Approved TDM Plan. An applicant satisfies the requirements of this section if the director approves a transportation demand management plan under Subsection (C). Implementation of a transportation demand management plan is not required unless

compliance with the plan is required as a condition to development approval under Section 23-9D-1030 (Action on Development Application).

23-9C-2040 Active Modes Analysis

- (A) Purpose and Scope.
- (1) Purpose. The purpose of an active modes analysis is to identify existing and potential opportunities for pedestrian and bicycle connections between a proposed development and adjoining transportation facilities suitable for pedestrian and bicycle travel. An active modes analysis serves as a basis for developing a transportation demand management plan under Section 23-9C-2030 (Transportation Demand Management).
 - (2) Required Contents. An active modes analysis must be submitted in a manner approved by the director and must include:
 - (a) An inventory of existing transportation infrastructure conducive to pedestrian and bicycle travel within the geographic area covered by the transportation impact analysis, including sidewalks, urban trails, and bicycle facilities.
 - (b) An illustration depicting potential pedestrian and bicycle connections between the proposed development and major pedestrian-traffic generators within a ½-mile radius, including schools, office complexes, mixed use development, and civic uses, as well as transit facilities, sidewalks, and trails. The required distance is calculated from:
 - (i) the center of the proposed development, if the development is anticipated to generate less than 200 peak hour trips; or
 - (ii) the edge of the proposed development's boundaries, if the development is anticipated to generate more than 200 peak hour trips.
- (B) Timing of Submittal. An active modes analysis that meets the requirements of this section must be included with a proposed TDM plan under Section 23-9C-2040 (Transportation Demand Management).

Division 23-9C-3: Neighborhood Transportation Impact Analysis

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23-9C-3010 Purpose and Applicability

- (A) A neighborhood transportation impact analysis is a simplified transportation impact analysis that assesses the effect of a proposed development on streets accessing residential-use blocks. Like a transportation impact analysis, it helps determine the impact of new development on the transportation system and identify appropriate mitigation, but is generally required for less intensive development.
- (B) A neighborhood transportation impact analysis must be submitted for a development application specified under Section 23-9C-3020 (Neighborhood Transportation Impact Analysis) if:
 - (1) The proposed development is:
 - (a) anticipated to generate 300 or more vehicle trips in excess of the number of trips generated by existing uses of the property, if any, after deducting trip mitigation provided under Section 23-9C-2030 (Transportation Demand Management); or
 - (b) a public primary or secondary educational facility; and
 - (2) The proposed development has access to a street or segment of a street, other than a major street, along which 50 percent or more of the frontage located within 1,500 of the property line is zoned:
 - (a) an urban family residential district or more restrictive zoning designation; or
 - (b) a planned unit development (PUD) zone, if the PUD land use plan establishes residential densities at 12.44 units per acre or less.

23-9C-3020 Neighborhood Transportation Impact Analysis

- (A) **Scope of Analysis.** In addition to meeting applicable requirements of the Transportation Criteria Manual, a neighborhood transportation impact analysis must be submitted in a manner approved by the director and must:
 - (1) Evaluate the existing and projected operating multi-modal level of service of identified residential streets; and
 - (2) Identify mitigation measures to minimize any adverse effects on the transportation system.
- (B) **Timing of Submittal and Update.**
 - (1) If a proposed development meets the trip threshold established in Section 23-9C-3010 (Purpose and Applicability), a neighborhood transportation impact analysis:

- (a) must be submitted with an initial application for a site plan, subdivision, or planned unit development zoning district; and
 - (b) may be submitted, at the applicant's discretion or as required by the city council, for a zoning application other than a planned unit development.
- (2) The director may require an updated neighborhood transportation impact analysis if a subsequent application associated with the development:
 - (a) proposes a more intensive land use or an increase in unit totals that is inconsistent with assumptions used in the initial neighborhood transportation impact analysis; or
 - (b) is submitted more than five years after the initial transportation impact analysis was approved.

Article 23-9D: Development Conditions and Mitigation

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Division 23-9D-1: Action on Development Application

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23-9D-1010 Purpose and Applicability

- (A) This article authorizes the City to condition development approval on changes or improvements necessary to ensure that new development will be adequately served by transportation infrastructure and that impacts of new development on the City's transportation system will be mitigated.
- (B) This article applies to a subdivision, site plan, or zoning application.

23-9D-1020 Interdepartmental Engineering Review

Engineering determinations required to implement this article, including determinations of proportionality under Division 23-9A-2 (Proportionality of Transportation Infrastructure Requirements), shall be made jointly by the Transportation Director and the Development Services Director. Other actions and determinations required by this article shall be made by the Transportation Director, as provided in Section 23-9A-1020 (Review Authority).

23-9D-1030 Conditions to Development Approval

- (A) **Conditions Authorized.** The director or body responsible for acting on a development application may approve an application subject to one or more of the conditions authorized in this section.
- (B) **Design and Construction Requirements.** If a development application requires review under Article 23-9C (Transportation Review and Analysis), the director or the body responsible for acting on the application may require:
 - (1) Delaying or phasing development until construction of municipal transportation infrastructure required to accommodate vehicle trips generated by the development or other transportation improvements necessary to directly serve the development; or
 - (2) Reducing the density or intensity of the development, to the extent necessary to ensure that the capacity of the street network is sufficient to accommodate vehicle trips generated by the proposed development.
- (C) **Municipal Transportation Infrastructure Improvements.** To the extent authorized under Division 23-9D-2 (Transportation Infrastructure Improvements), the director may condition development approval on the construction, dedication, or funding of municipal

transportation infrastructure improvements necessary to address impacts of the proposed development on the transportation system.

- (D) **Transportation Demand Management.** The director or body responsible for acting on a development application shall condition approval of the application on compliance with an approved transportation demand management plan if the director:
- (1) Waives the requirement to submit a transportation impact analysis or a neighborhood transportation impact analysis based on vehicle-trip reductions established in a TDM plan approved under Section 23-9C-2030 (Transportation Demand Management); or
 - (2) Waives or reduces required contributions towards transportation infrastructure based on vehicle-trip reductions established in the transportation demand management plan, as authorized under Section 23-9D-2040 (Adjustments to Required Transportation Mitigation).

23-9D-1040 Transportation Mitigation Variance

- (A) An applicant may request that the Land Use Commission approve a variance from a condition imposed under this article, including conditions requiring the construction, dedication, or funding of municipal transportation infrastructure improvements or restrictions affecting the design or construction of a proposed development.
- (B) A variance requested under this section is subject to the procedures established in Section 23-9B-1030 (Variance from Right-of-Way Requirements) and is supplemental to other remedies available under this Title or state law.

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23-9D-2010 Tier 1 Transportation System Improvements

- (A) **Purpose and Applicability.** If a development application requires comprehensive transportation review under Division 23-9C-2 (Comprehensive Transportation Review), the director may condition approval of the application on a requirement to construct, dedicate, or fund transportation infrastructure improvements consistent with the requirements of this section.
- (B) **Scope of Required Improvements.** Subject to the development's roughly proportionate share, as determined under Division 23-9A-2 (Proportionality of Transportation Infrastructure Requirements), the director may require an applicant to:
 - (1) Construct or dedicate a system improvement identified in an analysis prepared for the project under Section 23-9C-2020 (Transportation Impact Analysis), provided that the improvement is located within:
 - (a) one-quarter mile of the proposed development site; or
 - (b) three-quarter miles of the proposed development site, if the identified improvement provides access between the proposed development and a school, transit stop, public space, or major street consistent with the Transportation Plan; and
 - (2) Fund a system improvement identified in the transportation impact analysis, regardless of its distance from the proposed development.
- (C) **Timing of Improvement.** If the director requires one or more system improvements under Subsection (B), the director or body responsible for approving the application may:
 - (1) Require an improvement to be built or funded concurrent with development approved by the initial application associated transportation impact analysis; or
 - (2) Defer the obligation to build or fund the improvement until the City's action on a subordinate development application.

23-9D-2020 Tier 2 Transportation System Improvements

- (A) **Purpose and Applicability.** If a development application does not require comprehensive transportation review under Division 23-9C-2 (Comprehensive Transportation Review), the director may condition approval of the application on a requirement to construct, dedicate, or fund transportation infrastructure consistent with the requirements of this section.

- (B) **Scope of Required Improvements.** Subject to the restrictions in Division 23-9A-2 (Proportionality of Transportation Infrastructure Requirements), the director may require an applicant to construct, dedicate, or fund system improvements under this subsection.
- (1) A required system improvement must bear an essential nexus to impacts generated by the proposed development and must satisfy the distance limitations applicable under Section 23-9D-2010(B) (Tier 1 Transportation System Improvements).
 - (2) Required system improvements are limited to:
 - (a) sidewalks and curb ramps;
 - (b) traffic signs, markings, and upgrades to signal infrastructure;
 - (c) traffic calming devices;
 - (d) bicycle lanes or upgrades to bicycle facilities;
 - (e) rectangular rapid flashing beacons;
 - (f) Pedestrian refuge islands;
 - (g) Urban trail improvements;
 - (h) right-of-way dedications; or
 - (i) transit facility improvements.
- (C) **Timing of Improvement.** If the director requires one or more infrastructure improvements under Subsection (B), the director or body responsible for approving the application may:
- (1) Require an improvement to be built or funded concurrent with development approved by the initial application associated with the transportation impact analysis; or
 - (2) Defer the obligation to build or fund the improvement until the City's action on a subordinate development application.

23-9D-2030 Fee In-Lieu of Infrastructure Improvements

- (A) **Criteria for Allowing Fee In-Lieu.** The director may allow an applicant to pay a fee in-lieu of constructing one or more system improvements required to be constructed under this division. In determining whether to allow payment of a fee in-lieu or to require construction of a system improvement, the applicable director shall consider:
- (1) The applicant's roughly proportionate share of infrastructure costs, as determined under Section 23-9B-1010 (Proportionality of Transportation Infrastructure Requirements), relative to the cost of constructing one or more identified system improvements;
 - (2) Future transportation improvements anticipated for the area through capital improvements projects or as a condition to the approval of other proposed developments; and
 - (3) The feasibility of constructing one or more identified system improvements by supplementing the amount collected through payment of a fee in lieu with City funds.
- (B) **Use of Fee In-Lieu.** After collecting a fee in-lieu under Subsection (A), the director shall:

- (1) Place the fee in a dedicated fund to be used solely for the purpose of constructing one or more system improvements identified under Section 23-9D-2010 (Tier 1 Infrastructure Improvements) or Section 23-9D-2020 (Tier 2 Infrastructure Improvements); and
- (2) Expend the fee within ten years from the date it is paid to the City, consistent with the purpose described in Subsection (B)(2), or refund the fee at the request of the applicant who paid the fee.

23-9D-2040 **Reduced Transportation Mitigation**

- (A) **S.M.A.R.T. Housing.** This subsection reduces the total contribution towards transportation infrastructure improvements that may be required for a development certified under Division 23-3E-4 (S.M.A.R.T. Housing).
 - (1) If the development does not require review under Section 23-9C-2 (Comprehensive Transportation Review), the total value of system improvements that may be required under this division is reduced by the following amounts:
 - (a) If at least ten percent, but less than twenty percent, of the dwelling units are reasonably-priced, the maximum cost is reduced by the percentage of affordable units;
 - (b) If at least twenty percent, but less than fifty percent, of the dwelling units are reasonably-priced, the maximum cost is reduced by fifty percent; and
 - (c) If at least fifty percent of the dwelling units are reasonably-priced, no transportation infrastructure improvements may be required.
 - (2) If the development requires review under Section 23-9C-2 (Comprehensive Transportation Review), the total value of system improvements that may be required under this division is reduced based on the requirements of Division 23-3E-5 (Additional Affordable Housing Incentives).
- (B) **Transportation Demand Management Plan.**
 - (1) At the request of an applicant, the director may reduce the total value of system improvements required under this division if:
 - (a) The director determines that one or more of the strategies established in a transportation demand management plan approved under Section 23-9C-2030 (Transportation Demand Management) will substantially reduce the number of vehicle trips generated by the development; and
 - (b) Approval of the development application is conditioned on compliance with the transportation demand management plan, as authorized under Section 23-9D-1030 (Action on Development Application).
 - (2) In reducing the value of required mitigation under this section, the director shall:
 - (a) Consider the location, layout, and context of the proposed development; and
 - (b) Base the amount of the reduction on anticipated vehicle-trip reductions established for the TDM Program in the Transportation Criteria Manual.

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Article 23-9E: Right-Of-Way Construction

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23-9E-1010 Purpose and Applicability

- (A) This article protects public health and safety by prohibiting work in public right-of-way without approval by the City and by requiring that all work in the public right-of-way meet City standards and be performed by individuals with sufficient expertise.
- (B) This article applies to any activity in the public right-of-way that disturbs or removes pavement, soil, or public infrastructure, including work affecting a driveway, street, alley, sidewalk, urban trail, or other public right-of-way.

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Division 23-9E-2: Construction License

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23-9E-2010 Licensure Requirements

- (A) In order to perform an activity that removes or otherwise disturbs soil, pavement, driveways, curbs, or sidewalks in the right-of-way, a person must:
 - (1) Obtain a permit to perform the work under Division 23-9E-2 (Right-of-Way Permit), in a manner prescribed by the director; and
 - (2) Have a right-of-way construction license issued under this division, including all terms required by Section 23-9E-1020 (License Application and Bond).
- (B) A permit applicant is responsible for demonstrating that a person performing activities described in Subsection (A), whether the applicant or an agent, is licensed under this division.
- (C) A contractor or agent of a franchise holder must comply with the licensing requirements in this division in order to perform work described in this division.
- (D) A licensee shall retain general supervision of all work engaged in under the license and may not transfer or assign the license.

23-9E-2020 License Application and Bond

- (A) To obtain a right-of-way construction license, a person must:
 - (1) submit an application in a manner prescribed by the director;
 - (2) pay the applicable license fee, as established by separate ordinance, except that a fee is not required for a franchise holder;
 - (3) provide a bond that is:
 - (a) for in an amount established by the director based on:
 - (i) The cost of the applicant's past projects and the projected cost of future projects; and
 - (ii) The potential damage to a right-of-way that the activity of the applicant may cause.
 - (b) on form approved by the city attorney; and
 - (c) payable to the City and issued by a surety issued to do business in the state of Texas.

- (B) In addition to the requirements in Subsection (A), a bond provided for licensure under this division must:
- (1) Be issued for the use and benefit of the City and all persons who may suffer injury resulting from the construction performed under the license;
 - (2) Hold the principal responsible for protecting the City and all persons from damage or injury arising from:
 - (a) negligence in the performance of work under the contract;
 - (b) failure to faithfully observe and comply with the City requirements for construction or repair work.
 - (3) Be effective for the term of the license.

23-9E-2030 License Approval Standard

The director shall approve a license if the director determines that:

- (1) The applicant is qualified to perform the work based on the applicant's experience and credentials; and
- (2) The applicant has provided the bond required by Section 23-9E-1020 (Application; Bond).

23-9E-2040 License Term; Suspension and Revocation

- (A) Except as otherwise provided by Subsection (B) and (C), a license issued under this division is effective on the date of issuance and remains effective for one year from the date of issuance.
- (B) If a bond required by this division lapses or is terminated, suspended, or revoked, the license issued to the contractor is automatically suspended. The contractor may not resume construction described by Section 23-9E-1010 (Permit and License Requirements) until the director reinstates or renews the license or issues a new license.
- (C) The director may suspend or revoke a license based on the licensee's failure to follow permit terms or conditions.

Division 23-9E-3: Right-Of-Way Permit

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23-9E-3010 Right-of-Way Permit Required

- (A) Except as provided by Subsection (B), a person must obtain a right-of-way permit in compliance with Chapter 14-11 (Use of Right-of-Way) in order to:
 - (1) Perform an activity that removes or otherwise disturbs soil, pavement, driveways, curbs, or sidewalks in the right-of-way; or
 - (2) Block, direct, impede, or reroute pedestrian and vehicular traffic; or
 - (3) Place a barricade or other traffic control device in a right-of-way.
- (B) An application for a right-of-way permit must be submitted by a licensed contractor, consistent with Section 23-9E-1020 (License Application and Bond).
- (C) A right-of-way permit is not required, if the work occurs outside of City accepted right-of-way and:
 - (1) Is performed in compliance with an approved site plan; or
 - (2) Is performed as part of the construction of a new subdivision plan, provided that the construction:
 - (a) Is included on the subdivision's approved street and drainage construction plans; and
 - (b) Is proposed to occur at the same time construction of the street and drainage systems occurs; or
 - (3) Is a minor repair or construction, as determined by the director; or
 - (4) Will be performed by a public utility or franchise holder.
- (D) A person may not transfer or assign a permit issued under this section.

23-9E-3020 Permit for Driveway Approach

- (A) Except as provided in Subsection (C), the director may approve a driveway approach for a lawfully existing or proposed land use if the director determines that the proposed driveway will not adversely affect vehicle and pedestrian traffic or pose a threat to public safety.
- (B) To determine whether a driveway meets the standard for approval under Subsection (A), the director shall consider:

- (1) Topography of the site proposed for development and the right-of-way to be accessed;
 - (2) Proposed and existing uses, including the intensity of development, potential trip generation, the mix of vehicles, and turning movement;
 - (3) Function of the public street, including the design and layout of the street, proximity to traffic signals, sight distance, operating speed, traffic volume, entrance/exit ramps, and frontage roads;
 - (4) Location of nearby streets or driveways;
 - (5) Development proposed by a site plan or other permit application, including the uses, on-site circulation, path delineation, the existence of parking stalls, building location, and loading facility location; and
 - (6) Potential increase in traffic routed onto a street as a result of the driveway installation.
- (C) The director may not issue a permit for a driveway approach for:
- (1) A driveway that provides access to or cut a curb that fronts on Lamar Boulevard between West 24th Street and West 30th Street; and
 - (2) A project that provides for parking between an established curb line or edge of paving and the property line of the adjacent property, unless specifically directed by the Council; or
 - (3) A stand-alone driveway not associated with a land use.
- (D) An applicant may not construct a type 2 driveway approach, as defined in the Transportation Criteria Manual, to provide access to angle or head-in parking for which a portion of the pedestrian way is required to maneuver in or out of a space.
- (E) An applicant may appeal a decision of the applicable director under this section to the Land Use Commission. In making a determination on an appeal filed under this section, the Land Use Commission shall consider the factors in Subsection (B).

23-9E-3030 Driveway Approach Design

The design of a driveway approach must:

- (1) Comply with an approved administrative site plan; or
- (2) Be approved by the director in compliance with the Transportation Criteria Manual.

23-9E-3040 Violations and Enforcement

- (A) **Grounds for Violation.** It is an offense and violation of this division:
- (1) To perform work for which a permit is required under this division:
 - (a) without obtaining a permit; or
 - (b) in violation of the permit or the requirements of this division; or
 - (2) To use or maintain improvements of any kind, including a driveway, which are installed or constructed in the right-of-way in violation of this division.

(B) **Director's Authority.** In addition to taking actions authorized under Article 23-2j (Enforcement), the director may:

- (1) Order the removal of an unauthorized obstruction or encroachment from public property and if necessary, remove the obstruction or encroachment at the responsible party's expense;
- (2) Suspend or revoke a permit issued under this division if the applicable director determines that the permittee has violated the terms of the permit; and
- (3) Place a hold on a certificate of occupancy or temporary certificate of occupancy until permit requirements are met, which may include payment of any assessed fees.

(C) **Automatic Suspension; Reinstatement.**

- (1) A permit issued under this division is automatically suspended if:
 - (a) Construction performed under the permit results in damage to or interferes with public utility equipment or service, a storm water drainage facility, a public structure, traffic signal systems, communications equipment, or a tree; and
 - (b) The permittee failed to obtain consent of the owner of the utility equipment or service, storm water drainage facility, public structure, traffic signal system, communications equipment, or tree before performing the construction activity.
- (2) The director may not reinstate a permit unless the permit holder has:
 - (a) Provided compensation for or made repairs to the satisfaction of the entity that owns the affected infrastructure; and
 - (b) Eliminated the interference.

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Division 23-9E-4: General Design and Maintenance Requirements

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23-9E-4010 Compliance Required

- (A) Construction authorized by a permit issued under this article must comply with the requirements of Chapter 23-2H (Construction Management) and this division.
- (B) The permittee shall retain general supervision of all work performed under a permit.

23-9E-4020 Design and Construction Standards

- (A) The design, construction, alteration, or repair of a sidewalk, driveway approach, pavement, appurtenance on public property, or other facility to provide access to adjoining property must comply with the Transportation Criteria Manual.
- (B) The design, construction, alteration, or repair of a curb or gutter must comply with the Drainage Criteria Manual and the Transportation Criteria Manual.

23-9E-4030 Establishing Line and Grade

- (A) The permittee shall establish the line and grade for construction performed under this division and shall set, preserve, and protect the line and grade stakes.
- (B) The city manager may require the permittee to set line and grade stakes under the direct supervision of a registered public surveyor or professional engineer registered in the State of Texas.

23-9E-4040 Alternate Materials, Designs, and Construction Standards

- (A) The director may approve an alternative material, design, or method of construction that deviates from requirements of this article or the Transportation Criteria Manual if the applicable director determines that the alternative is safe, durable, and equivalent to the requirements of this article and the Transportation Criteria Manual.
- (B) Materials, designs, or methods of construction approved under Subsection (A) must be used and installed in compliance with the terms of approval.

23-9E-4050 Removing Existing Curb Openings or Driveway Approaches

A person who constructs a new driveway approach shall:

- (1) Remove an existing curb opening or driveway approach on the same property if the opening or approach is not required;
- (2) Match a new curb, gutter, or sidewalk, to the existing adjoining curb grade and alignment; and
- (3) Install a new curb, gutter, or sidewalk, if required, at the same time that the new driveway approach is installed.

23-9E-4060 Relocation or Replacement of Facilities and Trees

- (A) A permittee shall pay the cost of relocating a public utility's storm water drainage improvement, water and waste water facilities, electrical equipment, traffic signal equipment, communications equipment, or trees required by the permittee's proposed construction.
- (B) If regulated trees are present, refer to Article 23-3C (Urban Forest Protection and Replenishment) to ensure compliance with urban forest standards.

23-9E-4070 Inspection Procedures

- (A) **Inspection Procedures.** The director shall establish procedures, consistent with this section, for inspecting construction authorized by a permit issued under this article.
- (B) **Phase 1 Inspection.** Shall include all elements covered by the permit, including inspection of materials, material testing, line and grade, forms, reinforcing steel, drainage, and subgrade before a final course of material is placed;
- (C) **Phase 2 Inspection.** Shall constitute the final inspection of finished construction, including site cleanup.
- (D) **Submittal Requirements.** Plans for right-of-way construction that are associated with a site plan or subdivision application must be:
 - (1) Prepared by a professional engineer licensed in Texas;
 - (2) Submitted to the Development Services Department;

- (3) Sufficient to convey the full intent of the designer according to current professional standards for working documents; and
- (4) Reviewed and approved by the appropriate City department, prior to submittal for inspection.

23-9E-4080 Street Maintenance

The director shall repair and maintain streets and transportation facilities in the right-of-way.

23-9E-4090 Driveway Approach Maintenance

A person owning any property abutting a driveway approach shall be responsible for ensuring installation, repair, and maintenance of the driveway approach consistent with appropriate and applicable standards for construction in the public right-of-way and shall keep such driveway approach in a good and safe condition, free from any defects and hazards of any kind or character.

23-9E-4100 Defective Conditions or Special Uses

A person making special use of a sidewalk, pedestrian way, curb, gutter, or driveway approach for the purpose of ingress or egress, downspout drains, or any other special use of any character, shall keep such sidewalk, pedestrian way, curb, gutter, or driveway approach in a good and safe condition and free from any defects and hazards of any kind and character.

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EC Motion #16

Reinstate Street Tree Requirements, 23-9E-5050(B)(1), as written in Draft 2, which states "The width requirements for street tree planting shall apply regardless of the available right-of-way; the street tree planting area shall extend onto private property,, within a public access easement, to fulfill the width the requirement when sufficient right-of-way is not available" Furthermore, when Subchapter E transitions to CodeNEXT Draft 3, staff will provide the EC with locations of Subchapter E in the new code at an EC meeting to ensure consistence and reflect the general intent that has been captured in the new draft. The EC recommends clarifying who is responsible for installing and maintaining street trees regardless of where they are located on a property; and the EC recommends adding a cross reference in the Landscaping Section to refer to the street tree requirements in the Transportation code.

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23-9E-5010 Existing Driveways

The director shall require an existing driveway to conform with this article and the Transportation Criteria Manual as a condition to approval of an application for zoning, rezoning, site plan approval, or site plan exemption.

23-9E-5020 Driveway Closure and Curb Construction

- (A) Consistent with the Transportation Criteria Manual, the director may require a driveway closing or curb construction as a condition to approval of a development or zoning application.
- (B) The director may require partial or complete closure of an existing driveway, consistent with the Transportation Criteria Manual, if the director determines that impacts of the driveway on the adjoining street network pose a threat to public safety.

23-9E-5030 Alleys

- (A) If a lot, or any portion of a site, is adjacent to an alley, then access for trash and loading shall be taken from the alley, unless otherwise approved by the director.
- (B) The director may require an existing, unpaved alley to be paved for all or a portion of its length if access from an alley is proposed in a development application.

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Division 23-9E-6: Sidealks, Urban Trails, and Street Trees

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23-9E-6010 General Sidewalk Requirements

- (A) **Sidewalks Required.** Sidewalks are required in all subdivisions **and site plans** and must be installed in accordance with this section.
- (1) New Subdivisions. For new subdivisions or re-subdivisions, sidewalks shall be dedicated on the plat and installed:
 - (a) Concurrently with the construction or improvement of adjacent streets within the subdivision; or
 - (b) In conformance with a phasing plan that provides pedestrian access which meets the standards of the Americans with Disabilities Act (ADA):
 - (i) From the boundaries of the subdivision to any transit stop, park, or place of accommodation regulated by the ADA that is located within the subdivision;
 - (ii) From the boundaries of the subdivision to any multi-family building within the subdivision that is subject to Fair Housing Act Accessibility requirements and has received a certificate of occupancy, **and**;
 - (iii) From the boundaries of the subdivision to any lot or building that has received a certificate of occupancy within two years from the installation of the adjacent subdivision street.
 - (2) Existing Subdivisions. Within a platted subdivision, required sidewalks shall be documented on plans approved with a site plan or building permit and must be installed prior to the issuance of:
 - (a) a certificate of occupancy for:
 - (i) a new building, regardless of land use;
 - (ii) an addition to an existing single-family dwelling that increases the gross floor area of the original structure by 50 percent or more; or
 - (iii) all nonresidential development, unless the improvements are limited to renovating or remodeling an existing structure consistent with the limitations established in Article 23-2G (Nonconformity); and
 - (b) a permit to relocate a building from one site to another.
- (B) **Installation Requirements.** A sidewalk must be:
- (1) Located along the front of lots and the street-side of corner lots;

- (2) Constructed in accordance with the Transportation Criteria Manual, including minimum requirements for the location and width of a sidewalk and the installation of drainage facilities and pedestrian ramps; and
- (3) Separately permitted under Section 23-9E-3010 (Right-of-Way Permit Required) **when required**, unless sidewalk construction is approved as part of a subdivision construction plan **or located within a public access easement**.

23-9E-6020 Fee In Lieu of Sidewalk Construction

- (A) The director may allow an applicant to pay a fee for the construction of off-site sidewalks or urban trails in lieu of installing all or part of the sidewalk improvements required under Section 23-9E-6010 (General Sidewalk Requirements).
- (B) In determining whether to allow payment of a fee in-lieu, the director shall consider:
 - (1) Proximity to the nearest existing sidewalk;
 - (2) Proximity to civic uses, such as schools, libraries, and government buildings;
 - (3) Whether future sidewalk improvements in the general vicinity of the proposed development are:
 - (a) designated in the Transportation Plan, the City sidewalk plan, or a neighborhood plan; or
 - (b) likely to be installed as a result of anticipated development; and
 - (4) Topographical or other site constraints that impact the cost or feasibility of installing a sidewalk.
- (C) The amount of a fee in-lieu paid under this section shall be based on the cost of sidewalk construction and shall be established in the Transportation Criteria Manual or by separate ordinance.
- (D) A fee collected under this section must be placed in a designated fund to be used solely for installing pedestrian facilities within the service area in which the development is located. The City shall expend a fee for this purpose within 10 years from the date it is collected or refund the fee at the request of the applicant.

23-9E-6030 Urban Trails

The dedication, installation or improvement of an urban trail **shall be required when identified within an adopted urban trail plan, and shall** comply with the Transportation Criteria Manual.

23-9E-6040 Street Tree Requirements

- (A) This section applies to:
 - (1) A subdivision construction plan;
 - (2) A site plan for new construction on previously undeveloped land; or

- (3) A site plan for new construction or redevelopment, if the director determines that all buildings on the site have been or will be demolished
- (B) Street trees shall be planted along streets included in or adjacent to development proposed by an application listed in Subsection (A). The installation must meet all applicable requirements of the Environmental Criteria Manual and the Transportation Criteria Manual.

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Article 23-9F: Street Design

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23-9F-1010 Purpose and Applicability

- (A) This article establishes minimum standards for street design, including access and layout, which are intended to ensure a uniform street network that can be served with public facilities and services and provides multi-modal transportation options appropriate to the context of new development.
- (B) Except as otherwise provided, the requirements of this article apply at any stage of the development process for which the dedication, construction, or improvement of streets and public right-of-way is required under this Title.

23-9F-1020 Standards for Design and Construction

- (A) **Generally Applicable Requirements.**
 - (1) All streets must comply with the Transportation Plan.
 - (2) Except as provided in Subsections (B) and (C), all streets, street intersections, and alleys, whether public or private, must be designed, constructed, and maintained in compliance with the Transportation Criteria Manual and City of Austin Standards and Standard Specifications.
- (B) **Reductions in Street Width.** The director may approve a street that is less than the width required under Subsection (A) if:
 - (1) the proposed development is limited to one side of the street; or
 - (2) a narrower width is warranted by topographical conditions, a drainage channel, proposed limited development on one side of the street, or other special condition.
- (C) **Compliance with County Standards.** A street or alley must be designed and constructed in compliance with county requirements if it is located in a subdivision that is more than two miles from the city limits and has a density of less than two and one-half lots or dwelling units per acre.

23-9F-1030 Street Names and Addresses

- (A) New streets shall be named to provide continuity of name with existing streets and to prevent conflict with identical or similarly spelled or pronounced names in other parts of the planning jurisdiction.

- (B) The director may not assign city addresses to private streets.

23-9F-1040 Traffic Control Devices

- (A) All signs and roadway striping or legends intended for traffic control on roads or parking areas open to public travel shall conform to the guidelines in the most current edition of the Texas Manual of Uniform Traffic Control Devices.
- (B) An applicant for a subdivision or other development approval require the dedication or improvement of streets shall:
- (1) provide street name signs for intersections with traffic signals; and
 - (2) provide and install pole mounted street name signs at street intersections without traffic signals.

Division 23-9F-2: Access to Major Streets

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23-9F-2010 Minimum Frontage for Major Streets

- (A) **Applicability.** This section establishes requirements for access from development approved under this title to a “major street,” as the term is defined in Section 23-9A-1050 (Definitions).
- (B) **Existing Streets.**
- (1) Except as provided in Subsection (B)(2), a subdivision plat or a site plan may not provide for direct access from a lot to a major street unless the lot contains 330 feet or more of frontage on the major street and alternative access is not available.
 - (2) The director shall permit access to a major street from a property with less than 330 feet of frontage on a major street if the property is subject to right-of-way condemnation and if:
 - (a) The property possessed more than 330 feet of frontage on the street before condemnation;
 - (b) The proposed driveway is not located in a controlled access area;
 - (c) The proposed driveway is the lesser of 100 feet or 60 percent of the frontage from the intersection; and
 - (d) The director determines that the driveway does not create a public safety hazard.
 - (3) The applicable director may require joint access to a major street for adjoining lots that have insufficient frontage to allow a driveway approach for each lot under the requirements of the Transportation Criteria Manual.
- (C) **Planned or Newly Constructed Streets.**
- (1) A subdivision plat or a site plan may not provide a full-purpose driveway on a major street unless the director approves an engineering study submitted by the applicant’s engineer that demonstrates a full-purpose driveway is safe based on geometric and traffic analyses.
 - (2) If a full-purpose driveway is not approved under conditions in Subsection (C)(1), a right-in, right-out driveway may be allowed if the director approves an engineering study submitted by the applicant’s engineer that demonstrates its safety based on geometric and traffic analyses.

23-9F-2020 Property Subject to Condemnation

On the request of a condemning authority or property owner before acquisition of a right-of-way occurs, the applicable director may modify the access requirements of this division and the Transportation Criteria Manual for a property that is subject to right-of-way condemnation if the modification does not create a public safety hazard or have an adverse effect on traffic operation.

23-9F-2030 Joint-Use Driveways

- (A) In this division, joint-use driveway means a driveway located entirely or partially on a tract of land that is available for use by an adjoining tract of land as ingress or egress to a public street.
- (B) Vehicular access to a tract of land through a joint-use driveway is allowed as an alternative to direct access to an abutting public or private street.
- (C) A joint-use driveway used as alternative access for single-family residential uses may not serve more than eight lots, shall provide for safe access, and shall be in compliance with the Transportation Criteria Manual.

Division 23-9F-3: Street Layout

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23-9F-3010 Purpose and Applicability

- (A) The purpose of this article is to provide for an integrated, orderly, and connected street network that can accommodate new growth and development, while continuing to serve the needs of established neighborhoods and urban centers.
- (B) This article applies to land included in an application for approval of:
 - (1) zoning or rezoning;
 - (2) preliminary plan or final plat;
 - (3) a site plan or site plan revision.

23-9F-3020 Street Layout and Alignment

- (A) **Layout.**
 - (1) The arrangement of streets shall provide for the alignment and continuation of existing or proposed streets into adjoining lands that are:
 - (a) undeveloped and intended for future development; or
 - (b) developed and include opportunities for connections to existing and proposed streets.
 - (2) Street rights-of-way shall be extended to or along adjoining property boundaries to provide a street connection or street stub for development.
 - (3) The site plan shall identify all stubs for streets and include a notation that all stubs are intended for connection with future streets on adjoining undeveloped property.
- (B) **Alignment.**
 - (1) Streets shall be aligned with and connect to existing streets on adjoining properties.
 - (2) Streets shall be stubbed to adjoining properties only when connection is not possible.
 - (3) A stubbed-out street shall include signage indicating that it is a location for a future street extension.

23-9F-3030 Access Streets

- (A) Except as otherwise provided in this section:
 - (1) A subdivision or site plan shall have at least two points of access; and
 - (2) Each point of access shall connect to a different external street.
- (B) A subdivision or site plan may have only one point of access if the director determines that:
 - (1) The access street provides access to not more than 30 dwelling units;
 - (2) The subdivision or site plan provides additional pedestrian and bicycle access; and
 - (3) The access street has a paved width of at least 26 feet and is not more than 1,200 feet in length.
- (C) A single-access street may be longer than 2,000 feet and serve more than 30 dwellings if the access street:
 - (1) Does not cross an area identified as Wildland-Urban Interface as shown on the Austin Fire Department Wildfire Risk map;
 - (2) Does not cross a low water crossing; and
 - (3) Does not contain slopes in excess of 10 percent.
- (D) A subdivision or site plan may have only one point of access if the director determines that providing more than one access street is undesirable, unnecessary, or impractical based on:
 - (1) Traffic safety;
 - (2) Flood and fire safety; and
 - (3) The environmental effect of a cut or fill, waterway crossing, or other surface disturbance necessary to provide more than one access street.

23-9F-3040 Dead End Streets

- (A) Dead end streets are prohibited unless the director determines that topography, natural features, or unusual conditions make connection to an existing or proposed street infeasible.
- (B) If allowed by the director, a dead end street must:
 - (1) Be no longer than 300 feet;
 - (2) Include a central planted median; and
 - (3) Include at least one public multi-use trail easement located between each cul-de-sac head or road turnaround and the sidewalk system of the closest adjacent road or public pathway. The multi-use trail easement must be at least 15 feet wide and limited to pedestrians, bicycles and similar non-motorized users.

23-9F-3050 Block Dimensions

- (A) **Block Shape and Size.** Individual block faces and the total block perimeter shall comply with the standards established in Table 23-9F-3050(A): (Block Shape and Size).

Table 23-9F-3050(A): Block Shape and Size

Zoning Districts	Face length max	Perimeter max
Regional Center Zones	350'	1400'
Main Street, Mixed-Use, Residential Multi-Unit, Residential House-Scale (R2D, R2E, R3B, R3D) Zones	600'	1600'
Residential House-Scale (R1, R2A, R2B, R2C, R3A) Zones	900'	2400'
Commercial, Industrial, Residential House-Scale (RR,LA) Zones	1320'	5000'

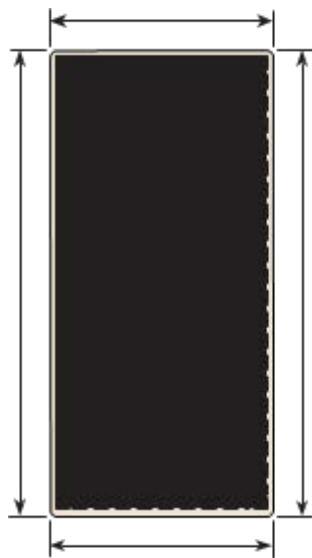


Figure 23-9F-1050(1): Regularly-shaped block

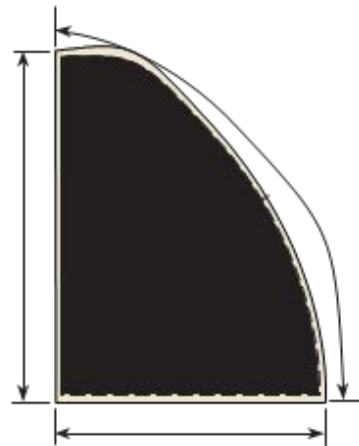


Figure 23-9F-1050(2): Irregularly-shaped block

(B) **Rules for Applying Table 23-9F-3050 (Block Shape and Size).**

- (1) If a block contains multiple zones, the least restrictive zone shall be used to establish the requirements for block size.
- (2) Irregularly-shaped blocks shall meet the overall perimeter established in Table 23-9F-3050(A) Block Shape and Size).
- (3) A block that is more than 600 feet in length must be transected by a public multi-use trail easement that is located not less than 300 feet from each block end. The easement shall be at least 15 feet wide and limited to pedestrians, bicycles, and similar non-motorized users.

- (C) **Administrative Modifications.** An applicant may request an administrative modification to a restriction in Table 23-9F-3050(A) or Subsection (B)(3). The director may approve

the modification, consistent with the criteria in Section 23-9B-1040 (Administrative Modifications), if the proposed design provides adequate multi-modal traffic circulation and utility service and conforms with the Comprehensive Plan.

- (D) **Exemptions from Maximum Block Size.** Compliance with the maximum block size required by this section is not required for a block front adjacent to a Hill Country Roadway if compliance would divide the property in a manner inconsistent with Section 23-4D-7060 (Hill Country Roadway Overlay Zone) or state highway access spacing requirements.

23-9F-3060 Through Lots and Alleys

(A) **Through Lots.**

- (1) A through lot in a Low to Medium Density residential zone is not allowed, unless access to one of the abutting streets is prohibited.
- (2) If a through lot abuts a major street, access to the major street is prohibited unless the director determines that topography or property size justify access to the major street.

- (B) **Alleys.** Except for flag lots, alleys or rear-lanes are required on lots narrower than 50 feet in developments over two acres. The director may modify this requirement if adequate off-street parking is provided for the lots.

Article 23-9G: Road Utility Districts

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23-9G-2020	Approval of Bond-Financed Activities
23-9G-2030	Construction Inspection
23-9G-2040	Notice of Conveyance
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Division 23-9G-1: Approval of Petition

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23-9G-1010 Purpose and Applicability

- (A) This division applies to a petition by a proposed road utility district for approval or modification of a preliminary plan for a street facility that the district intends to convey to the City or to a county in the City's extraterritorial jurisdiction.
- (B) A road utility district under Subsection (A) is a district created under Article III, Section 52 of the Texas Constitution and Chapter 441 of the Transportation Code.

23-9G-1020 Pre-Application Process

- (A) An applicant shall notify the city manager, in writing, of the applicant's intent to file a petition at least 30 days before filing the petition with the City. If an applicant intends to convey facilities to a county rather than to the City, the applicant shall notify the city manager, in writing, at least 30 days before filing the petition with the county. Notice under this section is effective on receipt by the city manager.
- (B) If the applicant intends to convey facilities to a county rather than to the City, the applicant must submit the information required by the applicable City of Austin criteria manual along with the notice filed under Subsection (A).
- (C) The city manager shall schedule a meeting with the applicant, City staff, and representatives of the county in which the road utility district will be established to discuss the applicant's preliminary plan and the City's requirements for approval. The meeting may not be scheduled for a date later than the 10th day after the city manager receives notification under Subsection (A).
- (D) Except as otherwise determined by the city manager, the City shall not accept the petition before the 31st day after receiving notice of the applicant's intent to file a petition

23-9G-1030 Contents of Petition

- (A) The applicant shall file with the City Manager a petition and the additional documents required by the applicable Criteria Manual.
- (B) The statutory review period established by state law begins when the City Manager determines that an application is complete.

23-9G-1040 Conditions for Approval

- (A) The council may approve a petition filed under Section 23-9G-1030 (Contents Of Petition) if:
 - (1) The preliminary plan is consistent with the Transportation Plan;
 - (2) Proposed street construction and improvements comply with City requirements for streets and drainage;
 - (3) The construction and improvement of streets comply with the general land use plan for the proposed road utility district that is consistent with the Austin Comprehensive Plan and this title;
 - (4) The street project complies with the City's policies relating to archaeological site preservation, watershed protection, and other environmental policies in the Austin Comprehensive Plan and this title;
 - (5) A preliminary plan demonstrates the applicant's financial ability to complete construction of a proposed street; and
 - (6) If a preliminary plan proposes to convey an existing street or street under construction to the City, the plan demonstrates that the street will be subject to construction plan review and inspection by the City during construction.
- (B) At or before the time an application is filed, property owners in a proposed road utility district must:
 - (1) Petition the City for limited or full purpose annexation, at the City's option, if the road utility district adjoins the City boundary; or
 - (2) If the road utility district is in the City's two mile extraterritorial jurisdiction at the time of application, agree to petition for annexation at the time the road utility district becomes contiguous to the City boundary.

23-9G-1050 Review Process

- (A) The city manager shall forward a copy of the petition to appropriate departments and to the:
 - (1) Urban Transportation Commission;
 - (2) Environmental Commission; and
 - (3) Planning Commission.

- (B) A department that receives a copy of a petition from the City Manager shall submit a report on the petition to the City Manager not later than the 30th day after the date the petition is filed with the City.
- (C) Each board and commission identified in Subsection (A) shall review the petition and provide a recommendation on the petition to the city manager.
- (D) After receiving recommendations from the boards and commissions, the city manager shall request the council to set a public hearing to consider the petition.
- (E) The council shall set the public hearing during a regularly scheduled meeting of the council.

23-9G-1060 Council Review and Action

The city council shall approve or deny a petition before the expiration of the statutory review period. Council's approval of a petition is conditioned on execution of a consent agreement by the City and by the petitioner as representative of each owner of property in the proposed road utility district. The consent agreement must require the road utility district to submit to the City Manager, after creation, a list of directors and an annual report of road utility district activities.

23-9G-1070 Annexation Petitions & Petitions for Construction of Facilities Outside the Road Utility District

- (A) A petition for annexation of land by a road utility district and a petition to construct or improve a street facility outside of the road utility district is subject to the review procedure established by this division.
- (B) Except as provided in Subsection (C), a petition described under Subsection (A) is subject to the criteria in Division 23-9E-4 (Conditions to Approval of Development Applications).
- (C) The city council may shorten the time period for consideration of a petition

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Division 23-9G-2: Construction of Facilities

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23-9G-2010 Submittal of Construction Plans

- (A) If the City approves a preliminary plan and agrees to accept the conveyance of facilities after construction, the road utility district shall submit construction plans to the director for review at least 45 days before construction begins.
- (B) The director shall schedule a meeting between City staff and Road Utility District representatives not later than the 15th day after receipt of the construction plans to discuss the proposed construction plans and requirements for City approval.

23-9G-2020 Approval of Bond-Financed Activities

- (A) Before constructing a facility that is financed by bonds issued under or other state law, the road utility district shall submit construction plans to the applicable director for approval.
- (B) The director shall provide the Road Utility District with written comments that assess the degree to which the plans comply with the requirements of this article.
- (C) The Road Utility District shall make the corrections as requested by the director and shall submit four sets of revised plans for review by the director.
- (D) The director shall approve the plans if the plans comply with the City specifications.

23-9G-2030 Construction Inspection

- (A) After approval of construction plans, but before commencement of construction, representatives of the Road Utility District shall meet with the applicable director to discuss inspection by the City during the construction process.
- (B) The Road Utility District shall retain the services of a firm experienced in construction inspection and quality control. The director must approve the scope of services to be performed by the firm. The scope of services must:
 - (1) Include at least one qualified resident construction inspector;

- (2) Require quality control testing of materials and installations that meets the minimum requirements for sampling and testing established by the Texas Department of Transportation; and
 - (3) Require that quality control testing include job control tests and record tests.
- (C) City staff shall make periodic visits to the construction site to observe the progress and quality of the work and to determine if the work is proceeding according to the plans and specifications. The director may review all laboratory, shop, and mill tests of materials conducted by the Road Utility District at any time. If the work does not comply with the construction plans, the director shall give notice to the Road Utility District of its failure to comply and may give notice that approval the construction plans may be suspended and appropriate enforcement actions taken unless the work is brought into compliance within a specific period.

23-9G-2040 Notice of Conveyance

The Road Utility District shall give written notice to the City of its intent to convey a completed facility. The notice shall be given not later than the 10th day before the date of a public hearing before the road utility district board of directors, to determine if the facility is completed as specified in the Road Utility District's approved plan.

23-9G-2050 Representation by City Manager

- (A) The city manager shall represent the City before the Texas Transportation Commission in all proceedings authorized or required by applicable state law.
- (B) The city manager shall represent the City in proceedings before the Road Utility District related to conveying facilities by the Road Utility District.

Infrastructure



PC Motion #100

Recommend approval of Chapter 23-5, 23-7, 23-8, 23-9, 23-10, 23-12, and 23-13 with amendments previously approved

In Article 23-13: Definitions and Measurements, revise the definition of Microbrewery from 15,000 barrels to 5,000 barrels, and review Draft 3 for any terms that have been left undefined, using motions from Planning Commission CodeNEXT Draft 3 Deliberation Spreadsheet as guidance.

ZAP Motion #20

The Zoning and Platting Commission would like answers to the following questions: In regards to the Flood Mitigation Task Force (FMTF) Report:

- Which regulatory recommendations identified in the report are addressed in CodeNEXT?
- What feedback did the consultants provide for each regulatory recommendation in the FMTF Report?
- How is each recommendation addressed in CodeNEXT?
- If any recommendation was not addressed in CodeNEXT, what is the rationale?

ZAP Motion #21

We also request answers to the following general questions:

- Numerous individuals and groups have raised flooding concerns. How have those individual concerns been addressed? How is the comment process demonstrating the community's concerns are being heard and addressed?
- Additionally, it must be noted that the Environmental Commission is not making a recommendation on the second draft due to not having enough information. What additional information is needed? How quickly can that information be provided?

ZAP Motion #22

The Zoning and Platting Commission has requested (and requests again) the following information specific to flooding: Data on all the locations of localized flooding throughout the city; a list of all buyout locations; and identified buyout locations including money secured for buyouts, buyout status pending and properties identified but no money available to proceed with the buyouts.

ZAP Motion #23

The Zoning and Planning Commission recommends that the City of Austin implement a regional storm water management system for the remaining watersheds that don't have a

Regional Storm Management Program (RSMP). We would also like the RSMP to be the subject of a third party evaluation per the flood mitigation task force recommendation.

ZAP Motion #24

The Zoning and Platting Commission recommends that properly credentialed engineers review subjects that they are licensed in, including site plans for three to nine residential units

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23-10A-1010 Applicability and Review Authority

- (A) This article applies in the planning jurisdiction of the City of Austin unless stated otherwise in this article.
- (B) Authority and responsibility for implementing this article is delegated to the Austin Water Director, which is hereafter referred to as “the director.” However, the city manager may from time to time delegate functions under this article to other city departments, which shall control over the general delegation in this article.

23-10A-1020 Service Area of Austin Water

The service area of Austin Water is coterminous with the water, reclaimed water, and wastewater impact fee service area established by the city council under Article 23-10C (Water And Wastewater Capital Recovery Impact Fees), including each amendment or revision of the area.

23-10A-1030 Service Outside Service Area Prohibited

The City of Austin may not provide water or wastewater service outside the service area of Austin Water unless the city council by ordinance waives the prohibition by ordinance.

23-10A-1040 Regulation of a Wastewater Treatment Plant Not Owned by the City of Austin

In adopting and enforcing this article, the City of Austin exercises its powers and duties under the Texas Water Code.

23-10A-1050 Plan Reviews

All construction plans for subdivisions, sites, exemptions, corrections, tap connections, and revisions as well as any installation of or modifications to water and wastewater infrastructure shall be reviewed and approved by Austin Water. All construction plans shall conform to the Utility Criteria Manual, Standards Manual, and Standards Specifications Manual. The installation, removal, or modification of the City's water and wastewater infrastructure shall be inspected by the City of Austin.

23-10A-1060 Location and Use of Water and Wastewater Infrastructure

- (A) Water and wastewater easements, public utility easements, and utility corridors dedicated prior to the donation or dedication of land encumbered by those easements is not subject to Chapter 26 of the Parks and Wildlife Code. If the use of such easements and corridors vary from the terms and conditions of the easement or corridor, Chapter 26 of the Parks and Wildlife Code is required.
- (B) The location and protection of water and wastewater infrastructure shall be given consideration when determining the placement of trees; however, there shall be no less than five feet of separation, and as prescribed in the Utilities Criteria Manual, between trees and the outer diameter of water and wastewater infrastructure unless approved by the director. Additional mitigation efforts for the protection of water and wastewater infrastructure may be required in cases where there is no other reasonable alternative.
- (C) The location of water and wastewater infrastructure shall be given consideration when determining the placement of that infrastructure in the City of Austin's right-of-way. Water and wastewater infrastructure may be placed under the pavement if there is no reasonable alternative.
- (D) Water infrastructure, including water meters, and wastewater infrastructure must be installed and accepted before a lot may be occupied.

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23-10A-2010 Applicability

This division does not apply to a service extension that is constructed as part of a project serving a property if the director determines that the water or wastewater system that will serve the property can provide suitable and sufficient service in accordance with the Utilities Criteria Manual, and:

- (1) The nearest point on the property's boundary is 100 feet or less from an accessible water or wastewater system; or
- (2) The Water director determines that a suitable service connection can be made in compliance with the Utilities Criteria Manual to a water or wastewater main on the opposite side of an undivided city or county roadway.

23-10A-2020 Service Extension Application

- (A) A service extension request application is required to:
- (1) Connect a property to the Austin Water system if an accessible water or wastewater main is more than 100 feet from the property's boundary;
 - (2) Connect a property to a water transmission or wastewater interceptor within 100 feet of the property's boundary, unless an exception is approved by the director;
 - (3) Provide utility service to a property if an existing main or facility is unsuitable or insufficient to provide service to the property;
 - (4) Provide service from a decentralized wastewater system to a property where the director recommends the City of Austin operate and maintain that decentralized wastewater system.
- (B) A person must submit an application for a service extension to the director. The director may not accept an application if the application is not complete and the applicant has not paid the required non-refundable fee.

- (C) An application for approval of a service extension must:
 - (1) Include a general description of the location, size, and capacity of the service extension; and
 - (2) Include other information as required by the director.
- (D) If either water or wastewater service is to be provided by an entity other than the City of Austin, the applicant may be required to submit evidence of a commitment from the other entity to provide the appropriate level of service (including fire flow) required for the proposed land use. The evidence must be in the form of:
 - (1) A contract with the entity;
 - (2) A letter from the entity; or
 - (3) The minutes of the relevant meeting of the governing body of the entity.
- (E) Except as provided by Section 23-10A-1030 (Service Outside Service Area Prohibited), the director may not accept an application for a service extension if the property to be served by the service extension is not in the service area of Austin Water.

23-10A-2030 Review and Approval Process

- (A) **Administrative Review.** An administrative review will be conducted to determine the completeness of a service extension applications. Within a time period established by state law, notification will be sent to an applicant indicating whether an application is administratively complete or if additional information is required.
- (B) **Technical Review.** After an application is determined to be administratively complete, a technical review will be conducted. Technical review may include, but is not limited to, a determination of the service requirements for the subject property, the system capacity, cost participation, and type of improvements necessary to provide service to the property. Additional information may be required from the applicant for completion of technical review.

During technical review a professional engineer employed by Austin Water shall determine the size of a water or wastewater main or the capacity of a facility that is roughly proportionate to the size or capacity that is required to serve the proposed development in accordance with *Section 212.904 of the Texas Local Government Code (Apportionment of Municipal Infrastructure Costs)*.
- (C) **Notification of Approval.** Upon completion of the technical review, and subject to the approval requirements of Section 23-10A-2040 (Approval of Service Extension Request), notification of approval of the service extension request will be sent to the applicant.
- (D) An approved service extension request is not a reservation of capacity in the system but an acknowledgment of the intent to serve.
- (E) **Deficient or Inactive Applications.** Unless approved by the director, a service extension application is deemed rejected on the first anniversary of the date the director provides initial written notice to the applicant stating that:
 - (1) The application is administratively incomplete or is technically deficient; or
 - (2) Due to the applicant's inactivity, the director has placed the application on inactive status.

23-10A-2040 Approval of a Service Extension Request

- (A) Except as provided in Subsection (B), city council approval of a service extension request or amendment of an unexpired, approved service extension request is required.
- (B) The director may approve an application for a service extension request or amendment of an unexpired service extension request if:
 - (1) The director determines that sufficient capacity exists or will be available to meet the projected demands of the property to be served; and
 - (2) The property is located:
 - (a) In an area other than the Drinking Water Protection Zone d; or
 - (b) In the Drinking Water Protection Zone and within the full purpose corporate limits.

23-10A-2050 Environmental Resource Inventory

- (A) An applicant for a service extension request shall prepare an Environmental Resource Inventory, as described under Section 23-3D-5010, if required by the director.
- (B) An applicant is responsible for the cost of the Environmental Resource Inventory.

23-10A-2060 Approval of Improvements

- (A) After a request for a service extension has been approved, an applicant must submit the construction plans for needed improvements and a copy of the approved service extension request to the director for review and approval of the size, capacity, routing, and location of the improvements.
- (B) The director may approve the size, capacity, routing, and location of an improvement only if it complies with the Utilities Criteria Manual (or equivalent standards as determined by the director), and with each applicable City of Austin requirement.

23-10A-2070 Construction of Improvements

An applicant for a service extension request shall construct improvements in accordance with the requirements of the City of Austin and provide information determined by the director to be necessary to demonstrate that construction of the service extension complies with the requirements of the City.

23-10A-2080 Expiration of Service Extension Request Approval

- (A) This section applies to a service extension request approved before April 17, 2000.
 - (1) Unless extended under this Section or Subsection 23-10A-2080 (D), the approval of a service extension request remains in effect until the latest of:

- (a) The date on which the preliminary plan expires for the property to be served by the service extension;
 - (b) The second anniversary of the date on which the service extension request was approved if, on or before that date:
 - (i) A preliminary plan for the property to be served has not been approved; and
 - (ii) Construction of the service extension has not begun; or
 - (c) The third anniversary of the date on which the service extension request was approved, if:
 - (i) On or before that date a preliminary plan for the property to be served has not been approved; and
 - (ii) Construction of the service extension began before the second anniversary of the date on which the service extension request was approved but, on or before the third anniversary of that date, construction of the service extension has not been completed and accepted for operation and maintenance by the City of Austin.
- (2) If construction of a service extension begins while the approval is in effect under Subsection (1), the director may extend the approval of a service extension request for the period of time estimated to be necessary to complete construction of the service extension.
- (B) This Subsection applies to a service extension request approved after April 17, 2000, and on or before March 31, 2013.
 - (1) Except as set forth in Subsection (B)(2), an approved service extension request expires on the latest of:
 - (a) 120 calendar days after the date of its approval;
 - (b) For a project with a pending development application, the date the application expires; or
 - (c) For a project with an approved development application, the date the approval expires.
 - (2) For a project with a recorded plat, the service extension request does not expire.
 - (3) If a project's intensity, proposed land uses, or anticipated water or wastewater demands change, any such change must be reported to the director and there must be an application for the amended service extension request unless the director determines the change is not so substantial as to require an amendment.
- (C) This Subsection applies to a service extension request approved on or after April 1, 2013.
 - (1) Except as set forth in Subsection (C) (2), an approved service extension request expires on the latest of:
 - (a) 180 calendar days after the date of its approval;
 - (b) For a project with a pending development application, the date the application expires; or
 - (c) For a project with an approved development application, the date the approval expires.

- (2) For a project with a recorded plat, the service extension request does not expire for the portion of the property that was platted.
- (3) If a project's intensity, proposed land uses, lot configuration, or anticipated water or wastewater demands change, any such change must be reported to the director and there must be an application for the amended service extension request unless the director determines the change is not so substantial as to require an amendment.
- (D) Under this Section, if the approval of a service extension request requires cost participation from the City of Austin under a cost participation contract approved by the city council:
 - (1) Construction of the service extension begins on the date that fiscal security is posted or money is deposited in compliance with the contract; and
 - (2) The service extension request approval is extended until construction of the service extension is complete and the City accepts the mains and facilities constructed under the contract.

23-10A-2090 Service Commitment Transfer Not Permitted

A service commitment may not be transferred from one property to another.

23-10A-2100 Development Compliance

Development of a project for which a service extension request is approved must comply with the terms of the approved service extension request and all City of Austin requirements pertaining to water conservation.

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23-10A-3010 Eligible Projects

- (A) An entity that agrees to construct a water or wastewater main or a facility that on acceptance will become part of the City of Austin's water and wastewater system may apply to the City for cost participation in a water or wastewater main or a facility if the main or facility is oversized at the request of the City to serve additional property. Cost participation is not permitted for a wastewater main or wastewater facility that provides service within the Drinking Water Protection Zone.
- (B) Under this section cost participation will apply:
 - (1) If the improvement is a water main and has a diameter of more than 8 inches;
 - (2) If the improvement is a wastewater main and has a diameter of more than 8 inches; or
 - (3) If the improvement is a pump station, reservoir, lift station, force main or wastewater treatment plant.

23-10A-3020 Amount of Cost Participation

Table 23-10A-3020(A) and Table 23-10A-3020(B) below set forth the percentage of cost participation in the hard costs of an oversized water or wastewater main. The percentage of cost participation is based on the increased percentage in pipe diameter due to oversizing established under Section 23-10A-3030 (Request for Cost Participation). Cost participation is determined by multiplying the percentage set forth in Table 23-10A-3020(A) and Table 23-10A-3020(B) by the hard costs of an oversized line.

- (A) The following table sets forth the amount of cost participation for the hard costs associated with an oversized water main:

Table 23-10A-3020(A) Amount of Cost Participation (Water)

Minimum Required Pipe Diameter for the Property (inches)	Percentage of Cost Participation Based on Oversized Pipe Diameter							
	8	12	16	24	30	36	42	48
8	0%	33%	50%	66%	73%	78%	81%	83%
12	-	0%	25%	50%	60%	66%	71%	75%
16	-	-	0%	33%	47%	56%	62%	66%
24	-	-	-	0%	20%	33%	43%	50%
30	-	-	-	-	0%	17%	29%	37%
36	-	-	-	-	-	0%	14%	25%
42	-	-	-	-	-	-	0%	12%
48	-	-	-	-	-	-	-	0%

(B) The following table sets forth the amount of cost participation for the hard costs associated with an oversized wastewater main:

Table 23-10A-3020(B): Amount of Cost Participation (Wastewater)

Minimum Required Pipe Diameter for the Property (inches)	Percentage of Cost Participation Based on Oversized Pipe Diameter									
	8	12	15	18	21	24	30	36	42	48
8	0%	33%	47%	56%	62%	66%	73%	78%	81%	83%
12	-	0%	20%	33%	43%	50%	60%	66%	71%	75%
15	-	-	0%	17%	29%	37%	50%	58%	64%	69%
18	-	-	-	0%	14%	25%	40%	50%	57%	62%
21	-	-	-	-	0%	12%	30%	42%	50%	56%
24	-	-	-	-	-	0%	20%	33%	43%	50%
30	-	-	-	-	-	-	0%	17%	29%	37%
36	-	-	-	-	-	-	-	0%	14%	25%
42	-	-	-	-	-	-	-	-	0%	12%
48	-	-	-	-	-	-	-	-	-	0%

- (C) The amount of cost participation for hard costs for pump stations, reservoirs, wastewater treatment plants, lift stations, force mains and other facilities will be calculated on the percentage of oversizing of the treatment capacity or pumping capacity.
- (D) The amount of cost participation for soft costs may not exceed 15% of the hard costs calculated under Subsection (A), (B), and (C).
- (E) Notwithstanding the above, under no circumstance shall cost participation under this Section exceed the amount authorized by city council, unless the council provides authorization for additional cost participation.

23-10A-3030 Request for Cost Participation

During the technical review of the application, a determination by the City of Austin will be made on whether oversizing of water or wastewater mains or facilities serving additional property in the area will be necessary. If oversizing of any water or wastewater mains or facilities is necessary, the applicant will be required to submit a written request for City cost participation to the director prior to approval of a service extension request.

23-10A-3040 Approval Process for Cost Participation

- (A) The director shall review each request for cost participation.
- (B) The director may recommend approval of a request for cost participation only if the Austin Water director determines that:
 - (1) The property to be served is in the service area of Austin Water;
 - (2) The size of each proposed main or facility complies with the planning criteria of Austin Water and final design and routing will comply with the Utilities Criteria Manual;
 - (3) Funds for cost participation are available from an identified source or that funds will be available to meet the proposed payment schedule; and
 - (4) The proposed main or facility is an appropriate extension or addition to the water and wastewater utility system.
- (C) During the technical review the director, in consideration of a construction cost estimate provided by the applicant's engineer, will establish the terms of the cost participation. The director will provide a recommended not-to-exceed amount for cost participation, which amount will be an estimate based on the percentages for cost participation in Section 23-10A-3020 (Amount of Cost Participation).
- (D) The Water and Wastewater Commission shall make a recommendation on the request for cost participation.
- (E) The director shall forward the request and the Water and Wastewater Commission recommendation to the council for final action.

23-10A-3050 Cost Participation Requirements

- (A) An entity constructing a water or wastewater main or a facility that is eligible for cost participation may not receive a cost participation payment for the main or facility unless the entity complies with each requirement or regulation of the City of Austin, including but not limited to requirements relating to:
 - (1) The public advertising of the main or facility;
 - (2) The bidding on the main or facility;
 - (3) A performance or payment bond for the main or facility;
 - (4) Posting of fiscal security as set forth in the agreement required by Section 23-10A-3070 (Agreement);

- (5) Completion and acceptance; and
- (6) Warranty on the main or facility.
- (B) The entity constructing the main or facility is not end to receive a cost participation payment until the entity submits documentation showing the entity's compliance with each requirement described by Subsection (A).

23-10A-3060 Cost Participation Payment

- (A) **Drinking Water Protection Zone.** For cost participation relating to a water improvement associated with a water service extension request to a tract in the Drinking Water Protection Zone, the City of Austin shall pay its portion of the cost in four equal annual installments, without interest, with the first payment to be made on March 1 of the second year after the year in which the City accepts the improvement
- (B) **Non-Drinking Water Protection Zone.** For cost participation relating to an improvement associated with a service extension request in an area other than the Drinking Water Protection Zone (the "non-drinking water protection zone"), the City of Austin shall pay its portion of the cost 90 calendar days after the City accepts the improvement.

23-10A-3070 Agreement

- (A) An applicant for cost participation must enter into an agreement with the City of Austin before the City may make a cost participation payment.
- (B) The director shall determine the terms of the agreement.

Division 23-10A-4: Tap Permits

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23-10A-4010 Tap Permit Required

A person may not connect a property to the City of Austin's water or wastewater utility system unless the person holds a tap permit issued by the director approving the connection.

23-10A-4020 Property Required to be in Austin Water Area

The director may not issue a tap permit for property that is located outside the City of Austin's water and wastewater service area unless the city council by ordinance waives the prohibition.

23-10A-4030 Application for Tap Permit; Fees; Capacity

- (A) An applicant for a tap permit must apply to Austin Water on a form approved by the director.
- (B) An application for a tap permit must include:
 - (1) The name, title, address and telephone number of the applicant;
 - (2) A description of the property for which the tap permit is to be issued;
 - (3) Documentation demonstrating that the property that is the subject of the tap permit application is:
 - (a) A legal lot under state law and local subdivision requirements; and
 - (b) Located in:
 - (i) The City of Austin's water and wastewater impact fee service area; or

- (ii) An area covered by an agreement for the wholesale sale of water between the City of Austin and another utility service provider that authorizes the City to issue tap permits under the agreement;
- (4) If applicable, documentation that engineered tap plan has been approved;
- (5) If applicable, documentation that the applicant's service extension has been approved; and
- (6) Other information that the director determines is necessary to process the application.
- (C) An application for a tap permit must be accompanied by the payment of:
 - (1) The tap permit fee, connection fee, and impact fee set by the city council under separate ordinance; and
 - (2) Other fees required to be paid at the time the director issues the permit.
- (D) The director may not approve an application for a tap permit if existing facilities do not have actual capacity to serve the new connection.

23-10A-4040 Action on Application for Tap Permit

- (A) On approval of an application for a tap permit, the director shall issue a tap permit to the applicant.
- (B) If the director denies a tap permit, the director must notify the applicant of the denial, stating the grounds for the denial.

23-10A-4050 Tap Permit Not Transferable

A water or wastewater tap permit issued under this Division is issued for a specific property or service address. The permit may not be transferred to another property or service address.

23-10A-4060 Connection Delay

- (A) The director may delay an applicant's connection of an exchange or septic tank cutover if the system does not have sufficient capacity for the connection.
- (B) If a connection is delayed under Subsection (A), the director shall extend the time for connection until there is sufficient capacity.

23-10A-4070 Expiration of Tap Permit

- (A) Except as provided in Section 23-10A-4060 (Connection Delay) and Subsection 23-10A-4060 (B), a tap permit expires on the second anniversary of the date on which the permit is issued unless:
 - (1) The connection authorized by the permit is made before the second anniversary date; or

- (2) On the second anniversary date the permit holder has a building permit, plumbing permit, and/or an unexpired site plan for the property or service address for which the tap permit is issued.
- (B) The director may extend a tap permit if, before the second anniversary of the date the permit was issued, the permit holder submits a written application for the extension that demonstrates that good cause exists for the extension.
- (C) The director may not extend a tap permit for more than 90 calendar days beyond the second anniversary of the date the permit is issued.
- (D) Under Subsection 23-10A-4060 (B), “good cause” means circumstances of financial hardship or a danger to human health or safety.

23-10A-4080 Refund of Tap Permit Fee

- (A) The director may refund a tap permit fee.
- (B) To obtain a refund of a tap permit fee, a permit holder, before the expiration date of the permit, must:
 - (1) Submit an application for the refund to the director stating the grounds for the refund;
 - (2) Tender the tap permit at the time the refund application is submitted;
 - (3) Submit documentation of the amount of the tap permit fee and the payment of the fee;
 - (4) Submit other information the director considers necessary to process the application; and
 - (5) Tender a canceled building permit if a building permit was issued.

23-10A-4090 Temporary Tap Permits for a City-supported Community Garden

- (A) In this section, City-supported community garden and garden permit have the meanings assigned by Section 14-7-1 (Definitions).
- (B) A tap permit issued for a City-supported community garden is a temporary permit. A tap permit issued for a City-supported community garden remains valid only while the garden permit is valid.
- (C) If the garden permit terminates and the parcel of land is no longer exempt under Section 23-5A-1040 (Platting Exemptions), Austin Water shall remove the tap from the City-supported community garden.
- (D) If the garden permit terminates and the parcel of land is a legal lot, Austin Water may remove the tap from the City-supported community garden unless:
 - (1) The owner or the user of the legal lot submits an application for a tap; and
 - (2) The director approves a tap permit.
- (E) An applicant under Subsection (D) must pay the fees for each tap for which an application is submitted, including any impact fee.

23-10A-4100 Wastewater System Connection Required

Except as otherwise determined by the Director, the wastewater system of every house or building shall be separately and independently connected to a public wastewater collection system if any part of the lot or tract that contains the house or building is within 100 feet in horizontal distance (measured on the closest practicable access route) of a public wastewater collection system. Connection to a public wastewater collection system is not required if any one of the following applies:

- (1) The property owner has received a written denial of service from the owner or governing body of the public wastewater collection system;
- (2) The property owner has received a written determination from Austin Water that it is not feasible for the building to be connected to the public wastewater collective system;
- (3) The director has administratively waived the requirement to connect the public wastewater collection system; or
- (4) A composting toilet serves the property; and Austin Water has approved the disposal of liquid wastes in a private on-site sewage facility.

23-10A-4110 Potable Water System Connection Required

Except as otherwise determined by the Director, the potable water system of every house or building shall be separately and independently connected to a public potable water system if any part of the lot or tract that contains the house or building is within 100 feet in horizontal distance (measured on the closest practicable access route) of a public potable water system. Connection to the public potable water system is not required if any of the following applies:

- (1) The property owner has received a written denial of service from the owner or governing body of the public potable water system;
- (2) The property owner has received a written determination from Austin Water that it is not feasible for the building to be connected to the public potable water system; or
- (3) The director has administratively waived the requirement to connect the public potable water system.

Article 23-10B: Water Districts

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23-10B-1010 **Applicability**

This Article 23-10B applies to:

- (1) The creation of a District in the planning jurisdiction of the City of Austin;
- (2) The request by an existing District to annex or include territory in a District;
- (3) An amendment to a District consent document or an agreement with a District; and
- (4) A District bond issuance.

23-10B-1020 **Minimum Land Requirements; Economic Viability**

- (A) A District may not contain less than 100 acres of territory.
- (B) A District must contain an amount of territory sufficient to assure the economic viability of the District.
- (C) An applicant seeking consent to the creation of a District or to include territory in an existing District must submit information to demonstrate the economic viability of the proposed or existing District.

23-10B-1030 **Creation of District Inside City of Austin**

- (A) A District may be created inside the municipal limits of the City of Austin only if:
 - (1) The written consent of the City of Austin is obtained;
 - (2) Creation of the District complies with this Article.
- (B) Territory located inside the full purpose municipal boundary of the City of Austin may be included in a proposed District only if:
 - (1) The territory is 1,000 feet or less from a major thoroughfare; and
 - (2) The area of the territory does not exceed five percent of the total amount of territory in the proposed District.

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23-10B-2010 Review of a Petition

- (A) The City of Austin shall review a petition filed with the City of Austin for the City's consent to:
 - (1) The creation of a District; or
 - (2) The annexation of territory to a District.
- (B) The review by the City of the petition must comply with this Division.

23-10B-2020 Pre-Application Review

- (A) A person who intends to file a petition for the creation of a District may discuss the proposed District in a pre-application review with City employees before the petition is filed.
- (B) To request a pre-application review, a person must notify the city manager of the person's intent to file a petition in writing at least 30 calendar days before the date the person files the petition with the City.

23-10B-2030 Petition Filed; Notice of Petition

- (A) A petition for the creation of a District must be filed with the city manager.

- (B) The city manager shall give notice under Division 23-2C-5 (Notice Of Applications and Administrative Decisions) of a petition filed under this section.

23-10B-2040 Designation as City of Austin Service or Non-City of Austin Service District

On the filing of a request for the consent of the City of Austin to the creation of a District, the city manager shall designate the proposed District as a city service district or a non-city service district.

23-10B-2050 Review of Petition by City of Austin Employees

- (A) Employees of the appropriate City of Austin departments shall:
- (1) Review the petition; and
 - (2) Prepare a report on the petition.
- (B) A report prepared under Subsection (A) may include appropriate recommendations.
- (C) The city manager shall send a copy of each report prepared under Subsection (A) to:
- (1) The city clerk;
 - (2) The person who filed the petition;
 - (3) Each department that participated in the review; and
 - (4) Each member of the:
 - (a) Water and Wastewater Commission;
 - (b) Planning Commission;
 - (c) Environmental Commission;
 - (d) Parks and Recreation Board; and
 - (e) Urban Transportation Commission.

23-10B-2060 Review by Certain Boards and Commissions

Each board and commission identified in Section 23-10B-2050 (C) (4) (Review Of Petition By City of Austin Employees) shall review the petition and prepare a recommendation on the petition.

23-10B-2070 Distribution of Reports

- (A) The city manager shall:
- (1) Compile the City of Austin department reports and board and commission recommendations into one volume; and
 - (2) Send a copy of the compilation to:

- (a) Each member of the city council;
 - (b) The city clerk;
 - (c) The city attorney;
 - (d) Each department that reviewed the petition; and
 - (e) The person who filed the petition.
- (B) The copy of the compilation sent to the city clerk is available for public inspection.

23-10B-2080 Public Hearing Before Austin City Council

- (A) The city council shall set and hold a public hearing on the petition before the expiration of the period established by state law.
- (B) A public hearing required by Subsection (A) must be held during a regularly scheduled city council meeting.

23-10B-2090 Initial Action by Austin City Council

- (A) After the conclusion of the public hearing required by Section 23-10B-2080 (Public Hearing Before Austin City Council) and before the expiration of the period state law establishes for review of the petition, the city council by resolution may:
 - (1) Deny consent to the creation of the District; or
 - (2) Grant initial consent to creation of the District, specifying each condition necessary for final consent.
- (B) If the city council grants initial consent to the creation of a District, the city council shall instruct the city attorney to prepare the documents required for final consent by the city council, including a consent ordinance and required agreements.
- (C) The city attorney shall:
 - (1) Draft the required documents; and
 - (2) Before the time the city council is scheduled to grant final consent, send a copy of the documents to the:
 - (a) city council;
 - (b) City clerk; and
 - (c) Person who filed the petition.

23-10B-2100 Copies of Land Use Plan Required

- (A) Before the 15th calendar day after the date the city council grants final consent to the creation of a District, the person who filed the petition for creation shall provide to the city manager one copy, in a City of Austin approved format, of the land use plan approved by the city council.

- (B) Each copy of the approved land use plan must state on its face the date that the city council approved the land use plan. One copy of the approved land use plan must be on mylar (or in an other city approved format) and capable of being reproduced.

23-10B-2110 Austin City Council Action on Annexation Petition

The Austin City Council shall act on a petition for consent to the annexation of territory by a District before the 91st calendar day after the date the petition is filed, except as may be otherwise required by state law.

23-10B-2120 Request for Austin Water Service After City of Austin Consent Denied

- (A) If the city council does not grant consent to the creation of or annexation of territory to a District, the person who filed the creation or annexation petition may request the City to provide the water or wastewater service that the District proposed to provide.
- (B) A request under Subsection (A) must be filed with the city manager.
- (C) The City and the person filing the request shall enter into a negotiation to agree to terms of a contract under which the City shall provide the requested water or wastewater service.
- (D) A contract negotiated under Subsection (C) must be reviewed by the Water and Wastewater Commission and the Planning Commission. Each commission shall make a recommendation on the proposed terms of the contract to the city council.
- (E) The city council shall act on the proposed contract before the 121st calendar day after the date the request for City of Austin service is filed.

23-10B-2130 Subdivision Approval

The Planning Commission may not approve a preliminary plan or final plat of subdivision in a District that does not comply with a resolution or ordinance adopted in connection with the consent by the City of Austin to the creation of the District or an agreement entered into in connection with the consent of the City to the creation of the District.

23-10B-2140 Construction of Article

- (A) To the extent of conflict between this Division and another regulation of the Code, the other Code regulation prevails.
- (B) This Article does not exempt any development located in the territory of a District or undertaken on behalf of a District from any applicable provision of this Code.
- (C) To the extent of conflict between this Section and another regulation of the Austin City Code, the other Austin City Code regulation prevails.
- (D) This Article does not exempt any development located in the territory of a District or undertaken on behalf of a District from any applicable provision of the Austin City Code.

Division 23-10B-3: Conditions and Restrictions on Consent to Creation of District

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23-10B-3010 General Provisions

- (A) The city council may impose a condition or restriction on a District in connection with the consent of the City of Austin to the creation of a District in accordance with this Article, applicable council resolutions and ordinances, and applicable state law.
- (B) A condition or restriction imposed in connection with the consent of the City to the creation of a District must be included in a resolution, agreement, or ordinance that pertains to the District.

23-10B-3020 Conditions and Restrictions Generally

- (A) This Section applies to each District.
- (B) The plans and specifications for a facility to be financed or constructed by or on behalf of a District must be approved by the City of Austin before construction begins. Fees may be charged for the review and approval of the plans and specifications. The facility must be constructed in accordance with the approved plans and specifications.
- (C) The City of Austin may inspect the construction of a facility financed or constructed by or on behalf of a District as determined necessary by the City to ensure compliance with the approved plans and specifications and any applicable requirement. The City may charge a fee for an inspection.
- (D) A District shall prepare and file with the city manager:
 - (1) A certified copy of each annual audit of the District;
 - (2) An annual report describing the status of construction by or on behalf of the District; and
 - (3) Minutes of all District board meetings.
- (E) A District may not provide any service outside the boundary of the District without the approval of the city council.
- (F) A District may not annex territory to or exclude territory from the District without the approval of the city council.

- (G) All territory and each easement for a District facility must be dedicated to the public, the District, and each successor of the District.

23-10B-3030 Conditions and Restrictions Applicable to a City of Austin Service District

- (A) This section applies to a City of Austin service District.
- (B) If a District receives or will receive water or wastewater service from the City of Austin, the District shall adopt and enforce as a District rule Chapter 6-4 (Water Conservation), Chapter 15-10 (Wastewater Regulations), and Division 23-11B-6 (Plumbing Code).
- (C) A District may not support or encourage:
 - (1) An attempt to incorporate a municipality in the District; or
 - (2) An attempt by a municipality other than the City of Austin to annex territory in the District.
- (D) A wastewater treatment plant constructed by or on behalf of a city service District must irrigate plant effluent, if the plant would otherwise discharge:
 - (1) Over the Edwards Aquifer recharge zone; or
 - (2) In the Barton Creek watershed.
- (E) A city service District shall concurrently submit to the city manager a certified copy of each document the District submits to the Texas Commission on Environmental Quality, or another applicable agency of the state.

23-10B-3040 Bond-related Provisions

- (A) The following provisions must be included in a District consent agreement.
 - (1) A District must pledge the revenue and ad valorem taxes of the District to the payment of the principal of and interest on all bonds issued by the District.
 - (2) A bond may be issued by a District only for a purpose authorized by state law.
 - (3) A bond issued by a District for one purpose may not be used for another purpose.
 - (4) The City of Austin, to insure the economic vitality of a District and to the extent authorized by the laws of this state, may limit the amount of bonds the District may issue.
 - (5) To insure compliance by a District with each applicable condition or restriction imposed in connection with the consent of the City to the creation of the District, the city council is entitled to approve the issuance or sale of a District bond before the District issues a bid invitation for the bond. If the District is not in compliance with each applicable condition:
 - (a) The city council may not approve the issuance or sale of the bond; and
 - (b) The District may not issue or sell the bond.
 - (6) Each bond issued by a District must include a call provision that permits the District to redeem the bond at par.

- (7) A District may not spend the proceeds of a bond or incur any indebtedness for the purpose of providing service to territory outside the boundary of the District without the approval of the Council.
- (8) The net effective interest rate of a bond issued by a District may not exceed 102 percent of the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one month period preceding the date that notice of sale is given.
- (B) In consenting to the creation of a District, the City of Austin may impose an additional condition or restriction on the terms, provisions, or sale of a bond or note of the District. A condition or restriction imposed under this Subsection may not cause the bond or note to be unmarketable.

23-10B-3050 Utility Rates in a Municipal Utility District

- (A) The consent of the City of Austin to the creation of a municipal utility district shall be conditioned on a contract between the City and the municipal utility district. The contract must:
 - (1) Include adequate detail as required by the laws of this state; and
 - (2) Provide that at the time the City annexes the territory of the municipal utility district, water and wastewater rates established for property in the municipal utility district shall be sufficient to fully compensate the City for assuming the indebtedness of the municipal utility district after the municipal utility district is dissolved.
- (B) A water or wastewater rate established under a contract required by Subsection 23-10B-3050 (A) shall be based on the water or wastewater rate established for other customers in the boundary of the City of Austin and shall include a component based on the monthly debt retirement payment assumed by the City. A water or wastewater rate may be recalculated as provided in the contract.
- (C) A water or wastewater rate established under a contract required by Subsection 23-10B-3050 (A) must remain in effect until:
 - (1) The bonded indebtedness of the District is fully retired; and
 - (2) The City is fully compensated, regardless of whether a bond of the District is called.
- (D) The written consent of the City of Austin to the creation of a municipal utility district shall specify the date by which at least 90 percent of the water, wastewater, drainage, and road improvements for which bonds of the municipal utility district are issued must be installed or completed.

23-10B-3060 Annexation by City of Austin of District Territory

- (A) The consent of the City of Austin to the creation of a District may include a provision relating to the timing and conditions of annexation by the City, for full or limited purposes, of the territory in the District.
- (B) The consent of the City of Austin to the creation of a municipal utility district may provide that the City and the municipal utility district shall enter into an allocation agreement

relating to annexation by the City of the territory in the municipal utility district. An allocation agreement entered into under this Subsection:

- (1) Must be in compliance with the applicable law of this state; and
 - (2) May include a term or condition that is determined by the City to be necessary.
- (C) On annexation of the territory in a District, the City of Austin may:
- (1) Permit the District to continue to exist in accordance with the laws of the state;
 - (2) Dissolve the District in accordance with the laws of the state; or
 - (3) Permit the District to continue to exist in accordance with an allocation agreement entered into in compliance with the laws of the state.

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23-10B-4010 Applications Not Covered by this Section

- (A) This division does not apply to an application requesting that a District provide water or wastewater utility service to a site outside of the boundaries of the District if the site proposed to be served by the District:
 - (1) Is located in the service area of Austin Water;
 - (2) Is separated geographically from City of Austin water or wastewater facilities by the District; and
 - (3) Can be served by a facility:
 - (a) Financed by contract bonds; and
 - (b) Located in or immediately adjacent to the District.
- (B) A person requesting service described in Subsection (A) must apply under Division 23-10A-2 (Extension of Service, General Provisions).

23-10B-4020 Application for Out-of-District Service

- (A) An application requesting that a District provide water or wastewater utility service to a site outside of the boundary of the District must be filed with the city manager and the director by the person receiving the service.
- (B) An application filed under this Section includes each document required by City of Austin rules.

23-10B-4030 Notice of Application

On receipt of an application filed under this Section, the city manager shall notify the:

- (1) Austin City Council;
- (2) City clerk; and
- (3) Presiding officer of the Planning Commission.

23-10B-4040 Board and Commission Review; Austin City Council Action

- (A) This Section does not apply to an application filed under this Section that meets the criteria established in Section 23-10B-4050 (Administrative Approval Of Out-Of-District Service Application).
- (B) The city manager shall submit an application filed under this Section to each of the following boards and commissions determined by the city manager to have an interest in the application:
 - (1) Parks and Recreation Board;
 - (2) Urban Transportation Commission;
 - (3) Water and Wastewater Commission; or
 - (4) Environmental Commission.
- (C) The city manager shall submit an application filed under this division to the Planning Commission.
- (D) Each department, board, or commission that reviews an application filed under this Division shall send its recommendation on the application to the city council not later than the 60th calendar day after the date the application is filed with the city manager.
- (E) The city council shall act on an application filed under this Division not later than the date of the second regular Thursday meeting of the council that is to be held after the date that the council receives the final recommendations required by Subsection (D).

23-10B-4050 Administrative Approval of an Out-of-District Service Application

- (A) The city manager may approve an application filed under this Section if:
 - (1) The site that is to receive the proposed water or wastewater service is not:
 - (a) In or proposed to be brought into the service area of Austin Water;
 - (b) In an area:
 - (i) That could be served by a facility for which the issuance of a water or wastewater bond by the City of Austin or District has been authorized; or
 - (ii) In which the City or a District has called an election on the issuance of a water or wastewater bond; or
 - (c) In a District or the certificated service area of a private utility approved by the Texas Commission on Environmental Quality unless the District or private utility has released the site; and
 - (2) The District proposing to provide the water or wastewater service is not connected or proposed to be connected to:
 - (a) The water or wastewater system of the City; or
 - (b) A water or wastewater facility to which the City has made a capital contribution.
- (B) An applicant requesting administrative approval of an application filed under this Division must submit:

- (1) Documentation demonstrating that the proposed water or wastewater service complies with Subsection (A); and
- (2) 10 copies of each document required by City rules to accompany the application.
- (C) The city manager must approve or deny an application filed under this Section before the 15th calendar day after the date the application is filed.

23-10B-4060 Emergency Out-of-District Service

- (A) To prevent or alleviate a danger to the public health and safety, the city manager may approve a request that a District provide water or wastewater utility service to a site outside of the boundary of the District.
- (B) The city council shall review a request made under Subsection (A) during the first regular Thursday meeting of the council that is held after the city manager approves the request.

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Division 23-10B-5: Amendment to a Consent Document or an Agreement with a District

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23-10B-5010 Application for Amendment of Agreement

- (A) An application to amend a consent document or an agreement between a District and the City of Austin must be filed with the city manager by a party to the document or agreement or a successor in interest to that party.
- (B) An application filed under this Section includes each document required by City rules.

23-10B-5020 Notice of Application

- (A) On receipt of an application filed under this Section, the city manager shall notify the:
 - (1) Austin City Council;
 - (2) City Clerk; and
 - (3) Presiding officer of the Planning Commission.
- (B) If the application filed under this Division requests a revision of a land use plan, the city manager shall give notice of the application under Division 23-2C-5 (Notice Of Applications And Administrative Decisions).

23-10B-5030 Board and Commission Review; Austin City Council Action

- (A) This section does not apply to an application for a revision to a land use plan that meets the criteria established in Section 23-10B-5040 (Administrative Approval Of A Revision To A Land Use Plan).
- (B) The city manager shall submit an application filed under this section to the Planning Commission.
- (C) The city manager shall submit an application filed under this section to each of the following boards and commissions determined by the city manager to have an interest in the application:
 - (1) Parks and Recreation Board;

- (2) Urban Transportation Commission;
 - (3) Water and Wastewater Commission; or
 - (4) Environmental Commission.
- (D) Each department, board, or commission that reviews an application filed under this Section shall send its recommendation on the application to the city council not later than the 60th calendar day after the date the application is filed with the city manager.
- (E) The city council shall act on an application filed under this Section not later than the date of the second regular Thursday meeting of the council that is to be held after the date that the council receives the final recommendations required by Subsection (D).

23-10B-5040 Administrative Approval of a Revision to a Land Use Plan

- (A) The city manager shall approve a revision to an approved land use plan if the proposed revision:
- (1) Includes only land uses shown on the approved land use plan, unless the city manager determines that a proposed use would be a permitted use in the most restrictive zoning district of the City of Austin that would permit the use on the site covered by the revision; and
 - (2) Will not:
 - (a) Increase residential density above the maximum residential density established by the approved land use plan;
 - (b) Increase the area of nonresidential land use above the maximum established by the approved land use plan;
 - (c) Increase development intensity in a water quality zone above the intensity shown on the approved land use plan;
 - (d) Increase the City's commitment for water and wastewater service above the level required to serve the uses identified on the approved land use plan or the level established in an agreement with the City;
 - (e) Require an amendment to the Transportation Plan or result in the misalignment of a road connecting to land adjacent to land in an approved preliminary plan or final plat; or
 - (f) In the opinion of the city manager:
 - (i) Increase traffic above the capacity of existing or funded roadways in the territory of the District;
 - (ii) Be incompatible with land uses in or adjacent to the District; or
 - (iii) Negatively affect a publicly dedicated parkland or a greenbelt area.
- (B) Under Subsection (A)(2)(b), land that is dedicated or used for a public purpose or a civic use is considered to be a residential land use.

23-10B-5050 Contents of Application for Revision of Land Use Plan

An applicant requesting administrative approval of a revision of a land use plan must submit:

- (1) Documentation demonstrating that the proposed revision complies with Section 23-10B-5040 (Administrative Approval Of A Revision To A Land Use Plan);
- (2) A tabular comparison of the approved and proposed land use plan comparing:
 - (a) Each utility requirement as described in the relevant consent agreement;
 - (b) Land uses by acreage;
 - (c) The number of dwelling units by residential category; and
 - (d) Residential density in each residential category; and
- (3) 15 folded copies of the proposed land use plan.

23-10B-5060 Administrative Action on Application to Revise Approved Land Use Plan

- (A) The city manager must approve or deny a revision to an approved land use plan before the 21st calendar day after the date the application was filed.
- (B) On approval of a revision to an approved land use plan, the person who applied for approval of the revision shall submit a copy of the revised land use plan to the city manager. The copy must be on mylar and capable of being reproduced.
- (C) The effective date of a revised land use plan approved under this Section is the date that the plan is signed by the city manager.

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Division 23-10B-6: District Bond Issuance

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23-10B-6010 **Applicability**

This section applies to a District created with the consent of the City of Austin after March 20, 1980, that issued bonds after December 19, 1985.

23-10B-6020 **City of Austin Approval Required**

A District may not issue a bond unless the city council approves the issuance of the bond.

23-10B-6030 **Application for Approval of a District Bond**

A District that proposes to issue bonds must file an application for approval of the issuance with the city manager. An application filed under this Section includes all documents required by City of Austin rules.

23-10B-6040 **Notice of Application**

On receipt of an application filed under Section 23-10B-6030 (Application For Approval of a District Bond) the City Manager shall:

- (1) Notify the city council and the presiding officer of the Water and Wastewater Commission of the application; and
- (2) Send one copy of the application to the presiding officer of the Water and Wastewater Commission.

23-10B-6050 **Department and Commission Review**

- (A) The city manager shall designate departments of the City of Austin to review the application.

- (B) Each designated department shall complete its review of the application not later than the 45th calendar day after the date the application is filed.

23-10B-6060 Auditor Review; Release of Official Statement

- (A) The city auditor shall review the preliminary and final official statements of the District that include the City of Austin's financial statements and audited opinion.
- (B) Until the city auditor completes the required review, an official statement described in Subsection (A) may not be disclosed to a person, other than:
 - (1) An employee of the City; or
 - (2) A consultant who is assisting the District to structure the issuance of a District bond.

23-10B-6070 Action on Application by Austin City Council

The city council shall act on an application filed under this Division not later than the date of the second regular Thursday meeting of the city council held after the date the council receives the recommendations of the Water and Wastewater Commission and each designated department of the City of Austin.

Article 23-10C: Water and Wastewater Impact Fees

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Division 23-10C-1: General Provisions

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23-10C-1010 Applicability and Review Authority

- (A) Except as provided by this Section and this Article applies to new development in the water and wastewater impact fee service area.
- (B) The impact fee applicable to new development outside the water and wastewater impact fee service area shall be set by agreement. The agreement may provide the amount of the fee, the method of collection of the fee, and other terms and conditions.
- (C) A contract for water or wastewater service to a wholesale customer or other political subdivision of the State of Texas shall provide for collection of impact fees and transmittal of collections to the City of Austin in accordance with this Article.
- (D) This Article 23-10C does not supersede a contract with a political subdivision or wholesale customer that was in effect on June 18, 1990, and which provides for the collection of impact fees and the transmittal of collections to the City of Austin.
- (E) Authority and responsibility for implementing this article is delegated to the Austin Water Director, which is hereafter referred to as "the director." However, the city manager may from time to time delegate functions under this article to other city departments, which shall control over the general delegation in this article.

23-10C-1020 Adoptions by Reference

- (A) The following are adopted and incorporated by reference:
 - (1) Impact Fee Land Use Assumptions;
 - (2) The designation of the water and wastewater impact fee service area; and
 - (3) Impact Fee Capital Improvements Plan for Water and Wastewater Facilities.
- (B) Documents adopted by reference shall be kept on file by the city clerk.

23-10C-1030 Accounts

- (A) The Financial and Administrative Services director shall establish accounting controls to ensure compliance with Section 395.024 of the Local Government Code.
- (B) The Financial and Administrative Services director shall establish separate interest-bearing accounts for impact fees collected for water facilities and for impact fees collected for wastewater facilities.

- (C) Funds may be disbursed as reasonably necessary to carry out the purposes of this Article; provided that a fee shall be expended within a reasonable period of time, not to exceed 10 years, from the date the fee is deposited into the account.
- (D) The Financial and Administrative Services director shall maintain records for each account that:
 - (1) Show the source and disbursement of fees;
 - (2) The number of service units for which fees are received; and
 - (3) Ensure that refunds from each account are properly made.

Division 23-10C-2: Fee Established

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23-10C-2010 Assessment and Collection of Impact Fees Authorized

- (A) This article levies a water impact fee and a wastewater impact fee to be assessed and collected in accordance with Chapter 395 of the Local Government Code.
- (B) The Austin Water director shall collect the water impact fee and the wastewater impact fee on new development in accordance with Chapter 395 of the Local Government Code and this article.

23-10C-2020 Assessment

- (A) This section applies to the assessment of the water impact fee and the wastewater impact fee.
- (B) This article assesses an impact fee on new development at the time of final plat approval.
- (C) If an applicant obtains a final approval for replatting, this article assesses an impact fee at the time of the replatting.
- (D) For a development which received final plat approval before June 18, 1990, and which is not replatted, this article assesses an impact fee as of June 20, 1990.
- (E) An application for an amended plat made under Local Government Code Section 212.016 or the City of Austin's subdivision rules is not subject to a reassessment of the impact fee.
- (F) The Texas Local Government Code provides for an exception to platting and Section 23-5A-1040 of the Austin City Code outlines authorized exceptions from platting requirements. The date that the property has applied and been approved by the City of Austin as exempted from the formal subdivide/platting process will be the date that is used to assess water and wastewater impact fees.

23-10C-2030 Amount of Fee

The amount of the impact fee to be assessed for each service unit and the amount of the impact fee to be collected for each service unit shall be set by ordinance.

23-10C-2040 Computation of Impact Fees to be Collected

- (A) The impact fees to be collected for new development are calculated by:
 - (1) Adding the number of service units attributable to all meters purchased for the development;
 - (2) Multiplying the total number of service units by the fee to be collected for each service unit for water or wastewater service; and
 - (3) Subtracting any applicable credits or discounts allowable under Article 23-10C for water or wastewater service from the product derived under Subsection 23-10C-2040 (A)(2).
- (B) If the property owner increases the number of service units for a development, the additional impact fees to be collected for the new service units shall be determined using the method set out in Section 23-10C-2040, and the fees and credits or discounts in effect at the time the additional meters are purchased. The additional fee shall be collected at the time the additional meters are purchased.
- (C) If the property owner decreases the number of service units for a development under an unexpired site plan, the property owner is entitled to a credit of the impact fee at that property for the amounts represented by the decrease in service units based on the fee to be collected for each service unit and credits or discounts in effect at the time the fee was paid.

23-10C-2050 Collection of Fee

- (A) Except as provided by Section 23-10C-2060 (Installment Payment Of Impact Fee), or by a contract with a wholesale customer or with another political subdivision, the impact fee due for new development shall be collected:
 - (1) At the time the City of Austin approves a site plan or building plan review; or
 - (2) For land platted outside the corporate boundaries of the City, at the time an application for a tap permit is filed.
- (B) A tap permit may not be issued unless the applicant has paid the impact fee.

23-10C-2060 Installment Payment of Impact Fee

- (A) The Austin Water director may allow an applicant to make installment payments of an impact fee in accordance with this Section 23-10C-2060.
- (B) The applicant must make written application for approval to make payment of an impact fee on an installment basis on a form promulgated for this purpose by the director.
- (C) The applicant must be:
 - (1) The owner of a single family residence occupied by the applicant as a homestead; or
 - (2) A community garden that is not a qualified community garden.

- (D) The applicant must demonstrate that the payment of the full amount of the impact fee at the time the tap permit is approved will cause the applicant undue financial hardship in accordance with standards promulgated by the director.
- (E) The property for which connection is sought:
 - (1) May not be used for a commercial or industrial purpose;
 - (2) Must be within the City of Austin's impact fee service area; and
 - (3) Must be a legal lot in compliance with applicable state law and local subdivision requirements.
- (F) An applicant who is eligible under Section 23-10C-2060 to pay an impact fee on an installment basis shall:
 - (1) Pay a minimum of 10 percent of the applicable impact fee and all connection fees at the time the tap permit is approved; and
 - (2) Execute an installment payment agreement on a form promulgated by the director and approved by the city attorney which must contain, at a minimum, the following provisions:
 - (a) The written promise of the applicant to pay the balance of the impact fee owed in equal annual installments over a payment term not to exceed five years at an interest rate of seven percent with each installment due and payable on the anniversary date of the approval of the tap permit until paid;
 - (b) Terms and conditions as the city attorney shall deem favorable, necessary, or required to enforce the agreement in the event of a default, including the right to disconnect service upon default and any other remedies authorized by law; and
 - (c) Other provisions the city attorney considers necessary to document the transaction, protect the interests of the City of Austin, and comply with applicable law.

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Division 23-10C-3: Determination of Service Units

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23-10C-3010 Service Units Where A Meter is Purchased

- (A) This section applies to the determination of service units for both water and wastewater service.
- (B) Service units shall be determined by the size and type of the water meter purchased according to the following schedule:

Table 23-10C-3010.A		
Meter Size (Inch)	Type	Service Units
5/8	Positive Displacement	1
¾	Positive Displacement	1.5
1	Positive Displacement	2.5
1½	Positive Displacement	5
1 ½	Turbine	9
2	Positive Displacement	8
2	Turbine	16
3	Compound	17.5
3	Turbine	35
4	Compound	30
4	Turbine	65
6	Compound	67.5
6	Turbine	140
8	Turbine	240
10	Turbine	350
12	Turbine	440

23-10C-3020 Fire Demand Meters

- (A) No service units shall be attributed to a tap that provides only fire protection capacity.
- (B) If a meter is purchased to provide both fire and domestic demand, the number of service units shall be determined based upon the size and type of meter that would be required to provide for domestic demand only as determined by the American Water Works Association or its successor agency.

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23-10C-4010 Exemptions from Impact Fee

- (A) An impact fee may not be collected for a connection that is used to provide only fire protection capacity.
- (B) An impact fee may not be collected for a connection for a state owned building or property that is entirely occupied by a state agency.
- (C) An impact fee may not be collected for non-residential construction funded, wholly or partly, by the City of Austin's community development block grant program.
- (D) An impact fee may not be collected for:
 - (1) The exchange of an existing 5/8-inch meter serving an existing duplex residence for two 5/8-inch meters serving the two dwelling units of the duplex residence, provided there are no additions or modifications to the existing duplex residence other than those necessary to comply with this Article; or
 - (2) The exchange of a connection for another connection, if the exchange will result in an equivalent or lesser number of service units on the property for which the connection was originally purchased. The number of service units to be exchanged shall be determined in accordance with Section 23-10C-3010 (Service Units Where A Meter Is Purchased).
- (E) If one 5/8-inch meter is serving more than one single-family detached residence on the same lot, the owner of one of the single-family detached residences being served by the existing meter may obtain a separate 5/8-inch meter without paying an additional impact fee.

23-10C-4020 Central System Cutover Exemption

- (A) At the time of the connection to the City of Austin's water system, a water impact fee may not be collected for the existing development that receives service from a central water supply system that is:
 - (1) Owned by a person other than the City; and

- (2) Is to be connected to the City's water system.
- (B) At the time of the connection to the City's wastewater system, a wastewater impact fee may not be collected for the existing development that receives service from a wastewater treatment plant that is:
 - (1) Owned by a person other than the City; and
 - (2) Is to be connected to the City's wastewater system.

23-10C-4030 Wastewater Impact Fee Exemption for Consumption Meter

A wastewater impact fee may not be collected for a meter used to monitor water that is used exclusively for consumption and such water cannot enter the City of Austin's wastewater system.

23-10C-4040 Water Impact Fee Exemptions for Annexed Property

A water impact fee may not be collected at the time a City of Austin tap permit is paid on a water connection for property full-purposed annexed for a period of two years from the date that retail water service is made available within 100 feet of the property, if residential structure(s) on the property were served by an existing on-site water well. The water impact fee waiver shall only apply to the same residential structure(s) on the property at the time of annexation.

23-10C-4050 Wastewater Impact Fee Exemptions for Annexed Property

A wastewater impact fee may not be collected at the time a City of Austin tap permit is paid on a wastewater connection for annexed property for a period of two years from the date that retail wastewater service is made available within 100 feet of the property, if residential structure(s) on the property were served by an existing on-site sewage facility. The wastewater impact fee waiver shall only apply to the same residential structure(s) on the property at the time of annexation.

23-10C-4060 Exemption for City-Supported Community Gardens

- (A) In this Section, City-supported community garden and garden permit have the meanings assigned by Section 14-7-1 (Definitions) of the Austin City Code.
- (B) An impact fee may not be assessed on a City-supported community garden.
- (C) The director of the department designated under Section 14-7-1 (Definitions) shall determine if the parcel of land is issued a garden permit.
- (D) If the garden permit on a parcel of land terminates, the director of the department designated under Section 14-7-1 (Definitions) shall notify the director and the Planning Director of the change in status.

- (E) After a garden permit terminates on a parcel of land and if the tap is not removed in accordance with Section 23-10A-4090 (Temporary Tap Permit for a City-Supported Community Garden):
 - (1) A user of the parcel of land shall pay any impact fees on the parcel of land within 30 calendar days; and
 - (2) If the impact fee is not paid as required under Paragraph (1), the director must notify the user that:
 - (a) If the parcel of land had a temporary exemption from the platting requirements before the garden permit was terminated, the user must plat the parcel of land before Austin Water can continue service;
 - (b) The delinquent impact fee on the parcel of land must be paid within 15 calendar days; and
 - (c) The failure to secure legal lot status or to pay the impact fee is grounds for terminating water service; and
 - (3) If, following the notice under Subsection (2), legal lot status is not obtained or the impact fee is not paid as required under Subsection (2), the water service may be disconnected.

23-10C-4070 Exemption for Certain Affordable Housing

- (A) In accordance with the *Texas Local Government Code, Section 395.016*, the city manager may reduce or waive the requirement to pay water and wastewater impact fees under this article for connections serving certain affordable housing. Such reductions or waivers shall be applied only to single-family residences and multi-family units that meet the eligibility and waiver requirements in state law cited in this subsection.
- (B) The city manager shall establish guidelines for the selection of the service units to receive a reduction or waiver under this section. The guidelines must include a requirement for a written application.
- (C) To be eligible for a reduction or waiver under this section, affordable housing must:
 - (1) Meet design and construction guidelines established by the city manager for habitability, affordability, accessibility, water conservation, and energy efficiency;
 - (2) Be served by City of Austin infrastructure and services; and
 - (3) Be a newly constructed single family home or multifamily housing unit located within the corporate limits of the City of Austin.
- (D) To receive a reduction or waiver under this section, an applicant who is approved for a reduction or waiver must provide to the Neighborhood Housing and Community Development director an agreement, a restrictive covenant, a deed of trust, a promissory note, or other documents determined to be necessary by the city attorney to establish an enforceable obligation by the applicant to:
 - (1) Pay to the City of Austin an amount equal to the impact fee otherwise applicable to the housing unit if the applicant does not comply with this section and applicable guidelines;

- (2) Reserve by covenant the applicable affordable dwelling units for the duration of an affordability period; and
 - (3) Pay liquidated damages that will fairly compensate the City of Austin for any breach.
- (E) To retain a reduction or waiver under this section, a unit of affordable housing must comply with the requirements of this section, any security documents executed under Subsection (D), and Texas Local Government Code, Section 395.016.
- (F) If an applicant who receives a reduction or waiver under this section does not comply with Subsection (E), defaults on its obligations under documents executed under Subsection (D), or does not perform in accordance with the conditions for receipt of the reduction or waiver, the City of Austin may initiate legal proceedings to recover the impact fees that would have applied to the housing unit and damages. Funds recovered for impact fees shall be deposited in the impact fee account of Austin Water. Damages collected to compensate the City of Austin for loss of affordable housing units shall be deposited into the Housing Trust Fund account of the Neighborhood Housing and Community Development department.
- (G) Before the Austin Water director may issue a tap permit authorizing connection to the City of Austin water or wastewater system for a property receiving a reduction or waiver under this section, the Neighborhood House and Community Development director must provide a written certification to the Austin Water director identifying the service address of the affordable housing unit.
- (H) The Neighborhood House and Community Development director may revoke a certification under Subsection (G) if the applicant does not finish construction of the approved affordable housing unit within 24 months after certification.
- (I) This section does not require a refund by Austin Water of impact fees previously paid.
- (J) This section does not apply to impact fees for separate irrigation meter(s) that service the development.
- (K) A reduction or waiver under this section may not be assigned or transferred by the applicant to another property.

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23-10C-5010 Refunds

- (A) If a refund is made under Section 395.025 of the Local Government Code, the tap permit shall be cancelled and all connection fees previously collected shall be refunded. If a building permit has been issued for the property, the canceled building permit must be presented before the refund may be made.
- (B) If a previously purchased but uninstalled water meter for which the impact fee has been paid is replaced with a smaller meter, the City of Austin shall refund a portion of impact fee payments based on the difference in service units of the two meter sizes and the fee for each service unit at the time of the original fee payment.
- (C) A request for a refund shall be submitted to the Austin Water director on a form provided by the City of Austin. The Austin Water director must respond to the requestor with a decision on the request not later than the 31st calendar day after the receipt of the request. The response must include the reasons for the decision. If a refund is due to the requestor, the Austin Water director shall notify the Financial and Administrative Services director that a refund payment is due to the requestor.

23-10C-5020 Expiration of Tap Permit

- (A) An impact fee may not be refunded if the tap permit for which it is paid expires.
- (B) If the tap permit or building permit for a property for which an impact fee has been paid expires, and a new application is filed for the same property, the applicant is entitled to receive a credit in the amount of the fee paid.
- (C) Except as provided by Subsection (B), an impact fee is not transferable to a property or service unit other than the one for which it is paid.

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Article 23-10D: Reclaimed Water

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23-10D-1010 Applicability and Review Authority

- (A) This article applies in the planning jurisdiction of the City of Austin except as otherwise provided in this Article.
- (B) Authority and responsibility for implementing this article is delegated to the Austin Water Director, which is hereafter referred to as “the director.” However, the city manager may from time to time delegate functions under this article to other city departments, which shall control over the general delegation in this article.

23-10D-1020 Availability of Reclaimed Water Service

- (A) The director may make reclaimed water available to properties within the service area as Austin Water extends the reclaimed water distribution system.
- (B) The director shall prescribe design requirements for reclaimed water facilities, the manner of construction, the method of operation, and conditions of service.

- (C) The director may refuse to provide service for the following reasons:
 - (1) Reclaimed water service would be detrimental to the potable water system;
 - (2) City of Austin supply of treated wastewater is inadequate to meet the anticipated needs of the proposed use area;
 - (3) Required fees have not been paid;
 - (4) Reclaimed water service to the area would not benefit the City of Austin;
 - (5) The proposed use is inappropriate for reclaimed water; or
 - (6) Known safeguards are not in place to protect the public health or the environment.
- (D) In determining whether to provide reclaimed water service to an applicant, the director may consider the following factors:
 - (1) The existence of a reclaimed water main adjacent to or near the premises of an applicant; and
 - (2) The applicant's offer to pay the cost of service extension.

23-10D-1030 Reclaimed Water Service Application

An applicant for a subdivision plat, building permit, site plan, water service extension, or water connection within the service area may submit an application to use reclaimed water. The director shall prescribe an application form for reclaimed water service.

23-10D-1040 Application Review

- (A) The director shall review an application for reclaimed water service and investigate the proposed service. The investigation may include a site visit with the ~~user~~ Reclaimed Water User to determine the feasibility of reclaimed water service.
- (B) The director shall determine whether the application meets the requirements of Article 23-10D and Texas Commission on Environmental Quality.

23-10D-1050 Approval Required for System Design and Operation

- (A) A Reclaimed Water User must submit design drawings and specifications to the ~~Watershed Director~~ Austin Water director for approval before the Reclaimed Water User may construct or retrofit an onsite facility that will use or receive reclaimed water.
- (B) A Reclaimed Water User must submit to Austin Water drawings of the final installed onsite reclaimed water system and the entire approved use area before beginning operation.

23-10D-1060 Backflow Prevention

Before reclaimed water service can be provided the director may require a Reclaimed Water User to install a backflow prevention assembly if chemicals are being injected into an onsite reclaimed water facility.

23-10D-1070 Storage

A Reclaimed Water User must design storage facilities used for storing reclaimed water in accordance with 30 Texas Administrative Code, Chapter 210.

23-10D-1080 Reclaimed Water Agreement

- (A) If the director approves the application, Austin Water may enter a reclaimed water service agreement with a Reclaimed Water User.
- (B) A reclaimed water agreement must incorporate the requirements of this Article 23-10D and additional Utility Standards, if any, prescribed by the director.
- (C) The Reclaimed Water User must sign the reclaimed water agreement acknowledging that the Reclaimed Water User is responsible for onsite activities and must agree to hold the City of Austin harmless from claims arising out of Reclaimed Water User's operation and maintenance of reclaimed water service.

23-10D-1090 Discontinuance of Service

- (A) The City of Austin may discontinue reclaimed and potable water service to a Reclaimed Water User if the Reclaimed Water User:
 - (1) Violates Article 23-10D;
 - (2) Fails to pay water bills;
 - (3) Tampers with the service;
 - (4) Cross-connects with a potable water source;
 - (5) Refuses to permit an authorized City of Austin representative to enter its premises to inspect the Reclaimed Water User's reclaimed water system; or
 - (6) Performs an act that may be detrimental to the water or wastewater system.
- (B) If a Reclaimed Water User vacates a service address, the Reclaimed Water User must give the City of Austin notice before the date the Reclaimed Water User wants utility service to be disconnected.
- (C) A Reclaimed Water User who seeks to discontinue service must pay for the reclaimed water used until the service is discontinued.
- (D) A Reclaimed Water User may not reconnect a discontinued service without the director's approval.

- (E) If a Reclaimed Water User reconnects a discontinued service without the director's approval, Austin Water may remove the service and charge an additional fee.
- (F) Austin Water may not charge a fee for discontinued reclaimed water service.
- (G) A Reclaimed Water User may apply for reinstatement of service after paying the fees or charges authorized by this Article 23-10D.
- (H) The director shall charge a fee for service reinstatement.

23-10D-1100 Austin Water Responsibilities

- (A) Austin Water and its authorized agents, employees, or contractors are responsible for the operation, management, and control of the offsite facilities and the oversight of reclaimed water.
- (B) Austin Water shall:
 - (1) Obtain necessary Texas Commission on Environmental Quality permits for the offsite use of reclaimed water under *30 Texas Administrative Code, Chapter 210*;
 - (2) Conduct reclaimed water quality assessments to comply with the requirements of the regulatory agencies; and
 - (3) Inspect the Reclaimed Water User's onsite facilities and their operations for conformance with Article 23-10D.
- (C) Before Austin Water requests city council approval to construct new reclaimed water satellite facilities-Austin Water shall request the recommendations of the Water and Wastewater Commission, Environmental Commission, and Land Use Commission.

23-10D-1110 Reclaimed Water User Responsibilities

- (A) A Reclaimed Water User may not make a connection to existing Austin Water facilities without the approval of the director.
- (B) A Reclaimed Water User is responsible for constructing an onsite service line to an established point of connection.
- (C) A Reclaimed Water User shall provide supervision of onsite facilities to assure compliance with this Article 23-10D and Chapter 15-1 (Cross-Connection Regulations) of the City Code.
- (D) A Reclaimed Water User shall provide access at reasonable times for inspections.

23-10D-1120 Use of Reclaimed Water

- (A) A Reclaimed Water User may use reclaimed water for the following purposes:
 - (1) Turf and general landscape irrigation;
 - (2) Non-food processing industrial processes;
 - (3) Non-residential toilet and urinal flushing;
 - (4) Construction activities;

- (5) Vehicle washing;
 - (6) Air conditioning cooling towers; and
 - (7) Other uses authorized by the director.
- (B) A Reclaimed Water User may use reclaimed water only in areas authorized by the director.
- (C) A Reclaimed Water User may not give, sell, trade, or transfer reclaimed water to another area without the written approval of the director.
- (D) A Reclaimed Water User may not discharge airborne or surface reclaimed water from the Reclaimed Water User's property, other than to a wastewater treatment system or wastewater collection system, without obtaining a permit from the Texas Commission on Environmental Quality authorizing the discharge. The Reclaimed Water User must notify Austin Water of the permit application.
- (E) A Reclaimed Water User who uses reclaimed water for cooling or processing must discharge the water to a sanitary sewer or use another method of discharge approved by the director.
- (F) A Reclaimed Water User may not interrupt reclaimed water service in a portion of the Utility system without the approval of the director. The director may direct, inspect, and determine the time for an interruption of service to an existing system.
- (G) Reclaimed water used for domestic, cooling, or other non-irrigation purposes will be treated the same as potable water as it relates to wastewater billing.

23-10D-1130 Inspection of Reclaimed Water Construction

- (A) Austin Water may inspect, remove, or secure devices installed by the Reclaimed Water User to control reclaimed water.
- (B) Austin Water personnel may inspect during normal business hours without notice to the user.
- (1) Austin Water and regulatory agencies may make periodic unannounced inspections of the onsite reclaimed water system.
 - (2) The Reclaimed Water User and its operations personnel shall cooperate with inspectors and assist in performing operational tests.
- (C) An onsite reclaimed water system must pass an operational test before Austin Water may approve the system.
- (D) The director may grant Reclaimed Water User final approval for reclaimed water service if:
- (1) The director approves the drawings;
 - (2) The system passes an inspection and cross connection control test; and
 - (3) The Reclaimed Water User makes corrections required by Austin Water.

23-10D-1140 Identification of Reclaimed Water Facility

A Reclaimed Water User must identify reclaimed water facilities in accordance with standards, prescribed by the director,

23-10D-1150 Prohibitions

A Reclaimed Water User may not:

- (1) Use reclaimed water for a purpose not approved in the reclaimed water agreement;
- (2) Use or apply reclaimed water for a purpose, including approved uses, directly or by windblown spray, to an area other than that approved in the reclaimed water agreement;
- (3) Use hose bibs on an onsite reclaimed water system unless the director approves the use of hose bibs; or
- (4) Allow obstructions to impede access to meter boxes or other facilities.

23-10D-1160 Rates and Charges

(A) Austin Water shall charge the rate provided by separate ordinance for the following:

- (1) Reclaimed water fee;
- (2) Tap fee;
- (3) Meter set charges;
- (4) Engineering plan review or inspection fees;
- (5) Reconnection fee; and
- (6) Service reinstatement fee.

(B) A Reclaimed Water User of reclaimed water service must pay an additional fee set by separate ordinance for discharge of reclaimed water to the sanitary sewer.

23-10D-1170 Meter Readings

If a reclaimed water meter fails to register or registers inaccurately, Austin Water may charge an average daily consumption rate based on a reading of the meter when in use and registering accurately during the same season or as close to the same season as is reasonably possible.

23-10D-1180 Billing

- (A) Austin Water may bill for reclaimed water monthly.
- (B) An active account becomes delinquent when full payment is not received in Austin Water's customer service office by the due date on the bill.

- (C) Austin Water may discontinue a delinquent account, regardless of location, until the billing is paid.

23-10D-1190 Water Right

The delivery of reclaimed water by Austin Water and the acceptance and use of the reclaimed water by the Reclaimed Water User is not a transfer by Austin Water or an acquisition by the Reclaimed Water User of a water right.

23-10D-1200 Offenses

- (A) A person commits an offense if the person knowingly violates any provision of this Article 23-10D.
- (B) An offense under this subsection is a Class C misdemeanor punishable by a fine not to exceed \$2000.
- (C) Each instance of a violation of this Article 23-10D is a separate offense.

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Article 23-10E: Drainage

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Division 23-10E-1: General Provisions

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23-10E-1010 Purpose

Austin’s unique combination of intense rainstorms, steep slopes, and slow-draining soils makes it especially prone to severe flooding conditions. On undeveloped land, stormwater runoff is dispersed across the landscape, where it is slowed and absorbed by vegetation, soil, wetlands, and uneven terrain, especially along a waterway’s natural banks and floodplains. When development increases impervious cover, removes these natural features, and pipes or channelizes stormwater flows, the land loses this natural storage capacity. Stormwater runoff travels more quickly into receiving streams, rivers, and storm drains, leading to increased flooding and erosion. Development within the floodplain or erosion hazard zone has the potential for placing people, property, and infrastructure at risk. Drainage regulations ensure the health, safety, and welfare of the public and property through management of stormwater, preservation of waterways, and control of soil erosion.

23-10E-1020 Applicability

- (A) Except as provided in Subsection (B), this article applies in the planning jurisdiction.
- (B) For a preliminary plan, final plat, or subdivision construction plan in the portion of the City’s extraterritorial jurisdiction that is within Travis County:
 - (1) This article does not apply; and
 - (2) Title 30 (Austin/Travis County Subdivision Regulations) governs.

23-10E-1030 Residential Development

Applications to develop from one to six residential units are subject to the requirements of this article identified in Division 23-2A-3 (Residential Development Regulations).

23-10E-1040 Review Authority

Authority and responsibility for implementing this division is delegated to the Watershed Director, which is referred to in this division as “the director.” However, the city manager may from time to time delegate particular functions under this division to one or more other City departments, which shall control over the general delegation in this subsection.

23-10E-1050 Obstruction of Waterways Prohibited

Unless authorized by a development application approved under Title 23, a person may not place, or cause to be placed, an obstruction in a waterway.

23-10E-1060 Duty to Maintain Unobstructed Waterways

The person in control of real property traversed by a waterway must keep the waterway free from an obstruction that is not authorized by a development application approved under Title 23.

23-10E-1070 Standing Water Declared a Nuisance

A pool of standing water in a waterway that is caused by an unauthorized obstruction in the waterway is declared to be a nuisance.

23-10E-1080 Computation of Stormwater Runoff

Stormwater runoff must be computed on the basis of a fully developed contributing drainage area or watershed as determined in compliance with the Drainage Criteria Manual.

Division 23-10E-2: Drainage Studies; Erosion Hazard Analysis; Floodplain Delineation

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23-10E-2010 Director Authorized to Require Drainage Studies

- (A) The director may require the applicant to provide, at the applicant's expense and as a condition for development application approval, a drainage study for the total area to be ultimately developed.
- (B) The drainage study must be in compliance with the Drainage Criteria Manual.
- (C) If a drainage study is required by this section, the City may not accept a development application for review for any portion of the proposed development until the director has received the required drainage study.

23-10E-2020 Director Authorized to Require Erosion Hazard Zone Analysis

- (A) The director may require the applicant to provide, at the applicant's expense and as a condition for development application approval, an analysis to establish the erosion hazard zone if the proposed development is:
 - (1) Within 100 feet of the centerline of a creek with a drainage area of 64 acres or greater;
 - (2) Within 100 feet of the ordinary high water mark of the Colorado River downstream from Longhorn Dam, as defined by Code of Federal Regulations Title 33, Section 328.3 (Definitions); or
 - (3) Located where significant erosion is present.
- (B) The erosion hazard zone analysis must be in compliance with the Drainage Criteria Manual.
- (C) If an erosion hazard zone analysis is required by this section, the City may not accept a development application for review for any portion of the proposed development until the director has received the required erosion hazard zone analysis.

23-10E-2030 Floodplain Maps, Delineation, and Depiction

- (A) The director shall designate and maintain official floodplain maps.
- (B) If an official floodplain map is not delineated, the applicant must calculate the boundaries of the 100-year floodplain in compliance with the Drainage Criteria Manual and submit the calculation to the director for approval.

- (C) If the director determines that FEMA regulations require a request to FEMA for a flood insurance rate map revision, the director may require the applicant to submit the revision request to FEMA.
- (D) The applicant must depict, as applicable:
 - (1) On a preliminary plan or subdivision construction plan:
 - (a) A 100-year floodplain;
 - (b) A FEMA floodplain; and
 - (c) A drainage easement or proposed drainage easement;
 - (2) On a final plat:
 - (a) A drainage easement; and
 - (b) A portion of a FEMA floodplain that is outside a drainage easement;
 - (3) On a site plan, including site plan exemption or general permit:
 - (a) A 100-year floodplain;
 - (b) A FEMA floodplain; and
 - (c) A drainage easement; or
 - (4) On a residential building permit:
 - (a) A 100-year floodplain;
 - (b) A FEMA floodplain; and
 - (c) A drainage easement.
- (E) If a portion of a FEMA floodplain is outside a drainage easement, the applicant must, on a final plat:
 - (1) Identify the portion of the FEMA floodplain that is outside the drainage easement, including the community and panel number of the flood insurance rate map; and
 - (2) Include a note that:
 - (a) Refers the reader to federal regulations governing development in a FEMA floodplain;
 - (b) States that flood insurance may be required; and
 - (c) Describes efforts to revise the flood insurance rate map.

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23-10E-3010 Criteria for Approval of Development Applications

- (A) General Requirements. A development application may not be approved unless:
 - (1) The application demonstrates sufficient capacity for the design flood, as determined in compliance with the Drainage Criteria Manual;
 - (2) Each proposed improvement is sufficiently strong to resist:
 - (a) External pressure caused by earth or building; and
 - (b) Internal pressure or abrasion caused by water or debris;
 - (3) The proposed grades will not permit stormwater to gather in a pool that may become stagnant, excluding variable pools in creek beds as a result of natural channel design;
 - (4) Temporary and permanent measures to control erosion are sufficient to minimize siltation of the waterway, as determined in compliance with the Environmental Criteria Manual; and
 - (5) All proposed improvements are located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (B) Additional Site Plan and Subdivision Application Requirements. This Subsection applies to proposed new development and proposed redevelopment, but does not apply to existing development that is not proposed to be redeveloped unless the existing development failed to comply with detention requirements applicable at the time it was constructed. A site plan or subdivision application may not be approved unless the proposed development:
 - (1) Will not result in additional adverse flooding impact on other property, as compared to the conditions that existed at the time of application;
 - (2) Will, notwithstanding the requirements of Subsection (B)(1), be designed such that proposed post-development peak runoff conditions do not exceed undeveloped peak runoff conditions;
 - (3) Preserves the natural and traditional character of the land and the waterway located within the 100-year floodplain in compliance with 23-3D-4060 (Floodplain Modification);

- (4) Except as provided by Subsection (C), includes on-site control of the stream protection volume, as determined in compliance with the Drainage Criteria Manual and the Environmental Criteria Manual; and
- (5) Will not result in erosion impacts on other property.
- (C) Off-site controls. A proposed development may provide off-site control of the stream protection volume, if the off-site control will not cause:
 - (1) An adverse water quality impact from increased in-stream peak flow; or
 - (2) Increased channel erosion.
- (D) Public Roadway Projects. Construction of new impervious cover for public roadway projects must comply with this section. Redevelopment of existing impervious cover for public roadway projects must comply with this section, but is exempt from the requirement in Subsection (B) (2).

23-10E-3020 Regional Stormwater Management Program

- (A) The director may approve participation in the Regional Stormwater Management Program as prescribed in the Drainage Criteria Manual if the site can demonstrate:
 - (1) No additional adverse impact from flood or erosion potential; and
 - (2) Adequate downstream flood conveyance capacity.
- (B) Regional Stormwater Management Program participation, if approved by the director, must be based on the difference between undeveloped and post-development conditions for all new or redeveloped impervious cover, unless the redeveloped impervious cover previously participated in the Regional Stormwater Management Program. . This calculation does not include existing development that is not proposed to be redeveloped unless the existing development failed to comply with detention requirements applicable at the time it was constructed.

23-10E-3030 Engineer's Certification Required for Certain Alterations and Improvements

- (A) The director may not accept any plan or specification for a proposed alteration or improvement of a bed or bank of a waterway unless the plan or specification is accompanied by a certificate bearing the seal of an engineer certifying that:
 - (1) The hydraulic and structural design is adequate; and
 - (2) The proposed alteration or improvement complies with the ordinances of this City, the Drainage Criteria Manual, and the laws of this state.
- (B) Subsection (A) does not prohibit the director from accepting a plan or specification for a minor alteration or improvement that, in the judgment of the director, does not require certification by an engineer.

23-10E-3040 Approval of Certain Permits and Certificates

If a development application requires the completion or partial completion of a drainage improvement before a building may be constructed on a lot, a building permit or certificate of compliance may not be issued for the lot unless the Development Services Director approves the issuance.

23-10E-3050 Design and Construction of Drainage Facilities and Improvements

- (A) The design and construction of a drainage facility or improvement must:
 - (1) Be in compliance with the Drainage Criteria Manual; and
 - (2) Provide for maintenance and protection from erosion in compliance with the Environmental Criteria Manual.

23-10E-3060 Enclosed Storm Drains, Bridges, and Culverts

- (A) The Development Services Director shall review and approve the plans and specifications for a storm drain, bridge, or culvert.
- (B) The City may inspect the construction of each storm drain, bridge, or culvert.

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Division 23-10E-4: Special Standards in Zoning Jurisdiction

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23-10E-4010 Applicability of Division

This division applies in the zoning jurisdiction.

23-10E-4020 Encroachment on Floodplain Prohibited

- (A) Except as provided in Section 23-10E-4060 (Standards in the 25-Year Floodplain), a development application may not be approved if a proposed building or parking area encroaches on the 25-year floodplain.
- (B) Except as provided in Sections 23-10E-4030 (General Exceptions), 23-10E-4040 (Standards in Central Business Area), and 23-10E-4050 (Standards for Parking Areas), a development application may not be approved if a proposed building or parking area encroaches on the 100-year floodplain.
- (C) The director may grant a variance to Subsection (A) or (B) if the director determines that:
 - (1) The finished floor elevation of a proposed building is at least two feet above the 100-year floodplain;
 - (2) Normal access to a proposed building is by direct connection with an area above the regulatory flood datum, as prescribed in Division 23-11B-1 (Building Code);
 - (3) A proposed building complies with the standards in Division 23-11B-1, Appendix G (Flood Resistant Construction) and Section 1612 (Flood Loads);
 - (4) The development compensates for the floodplain volume displaced by the development;
 - (5) The development improves the drainage system by exceeding the standards of Section 23-10E-3010 (Criteria for Approval of Development Applications), as demonstrated by a report provided by the applicant and certified by an engineer;
 - (6) The variance is required by unique site conditions; and
 - (7) Development allowed by the variance does not result in additional adverse flooding impact on other property.
- (D) The director shall prepare written findings to support the grant or denial of a variance request under this section.

23-10E-4030 General Exceptions

- (A) A development application with a proposed building or parking area that encroaches on the 100-year floodplain may be approved if the encroachment is:
 - (1) A parking area that is smaller than 5,000 square feet or an unoccupied structure that has an area of less than 1,000 square feet, and the director determines that the proposed development:
 - (a) Will not have an adverse effect on the 100-year floodplain or surrounding properties; and
 - (b) Otherwise complies with the standards of this Title;
 - (2) A **one to two-unit** residential structure in a subdivision:
 - (a) Recorded before September 25, 1983; and
 - (b) In which only one residential structure is built on a single lot; or
 - (3) A building authorized by a waterway development permit issued in compliance with Chapter 9-10 before September 25, 1983.
- (B) A development application that may be approved under this section must:
 - (1) Comply with the flood proofing standards of Division 23-11B-1 (Building Code); and
 - (2) Result in no additional adverse flooding impact on other properties, as determined by the director.

23-10E-4040 Standards in Central Business Area

- (A) This section establishes standards that apply in the central business area.
- (B) In this section, central business area means the area bounded by Interstate Highway 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.
- (C) A development application with a proposed building or parking area that encroaches on the 100-year floodplain may be approved if:
 - (1) The floor slab of a proposed building is at least two feet above the 100-year floodplain;
 - (2) Normal access to that building is by direct connection with an area above the regulatory flood datum, as defined by Division 23-11B-1 (Building Code);
 - (3) Development associated with construction of the building compensates for any floodplain volume displaced by that construction; and
 - (4) The applicant demonstrates by means of a study certified by an engineer that the construction of the building and development activities associated with that building improves the drainage system by exceeding the minimum standards of Sections 23-10E-1030 (Obstruction of Waterways Prohibited), 23-10E-1040 (Duty to Maintain Unobstructed Waterways), and 23-10E-1050 (Standing Water Declared a Nuisance).
- (D) The director may waive a standard of Subsection (C) if:

- (1) The applicant submits:
 - (a) A written request identifying the standard to be waived; and
 - (b) A justification for the waiver prepared by an engineer certifying that **modifying** the standard will not result in additional adverse flooding of other property; and
- (2) The director determines that:
 - (a) The waiver is required by unique site conditions;
 - (b) The waiver is a minimum departure from the standards of Subsection (C); and
 - (c) Waiving the standard will not result in additional adverse flooding of other property.
- (E) A development application that may be approved under this section must comply with the flood proofing standards of Division 23-11B-1 (Building Code).

23-10E-4050 Standards for Parking Areas

- (A) This section establishes standards that apply to the development of a parking area.
- (B) A development application with a proposed parking area that encroaches on the 100-year floodplain may be approved if:
 - (1) The level of water detention or water flow in the parking area during the 100-year storm does not exceed:
 - (a) An average depth of eight inches; or
 - (b) A maximum depth of 12 inches at any point; and
 - (2) Appropriate signs, approved by the director, are posted to notify persons that the water detention or water flow in the parking lot may exceed a depth of eight inches.
- (C) Notwithstanding the standards of Subsection (B), a development application with a proposed parking area that encroaches on the 100-year floodplain may be approved if the parking area is:
 - (1) Accessory to a **one or two unit** residential structure on a lot in a subdivision recorded before September 25, 1983;
 - (2) Authorized by a waterway development permit issued under Chapter 9-10 before September 25, 1983; or
 - (3) In the 100-year floodplain of:
 - (a) Lady Bird Lake; or
 - (b) The Colorado River downstream from Longhorn Dam.

23-10E-4060 Standards in the 25-Year Floodplain

- (A) This section establishes standards that apply to development in the 25-year floodplain.
- (B) A development application with a proposed building or parking area that encroaches on the 25-year floodplain may be approved if:

- (1) The building or parking area is located on parkland, a golf course, or other public or recreational land;
 - (2) The building, if any, is either:
 - (a) A restroom or bath facility, concession stand, tool shed, or pump house, with an area of less than 1,000 square feet; or
 - (b) A dock that is located in the 25-year floodplain of Lady Bird Lake, Lake Walter E. Long, or Lake Austin and constructed, or proposed to be constructed, in compliance with the standards of this Title;
 - (3) The parking area, if any, is smaller than 5,000 square feet; and
 - (4) The director determines that the proposed development:
 - (a) Will not result in additional adverse flooding impact on other properties; and
 - (b) Otherwise complies with the standards of this Title.
- (C) A development application approved under this section must comply with the flood proofing standards of Division 23-11B-1 (Building Code).

Division 23-10E-5: Responsibilities of Applicant or Owner

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23-10E-5030	Detention Basin Maintenance and Inspection	2

23-10E-5010 Stormwater Conveyance and Drainage Facilities

- (A) The applicant is responsible for the conveyance of all stormwater flowing through the property, including stormwater that:
 - (1) Is directed to the property by other developed property; or
 - (2) Naturally flows through the property because of the topography.
- (B) Future upstream development must be accounted for as determined in compliance with the Drainage Criteria Manual.
- (C) If the construction or improvement of a storm drainage facility is required along a property line that is common to more than one property owner, the applicant is, at the time the property is developed, responsible for each required facility on either side of the common property line.
- (D) The responsibility of the applicant includes the responsibility to dedicate or obtain the dedication of any right-of-way or easement necessary to accommodate the required construction or improvement of the storm drainage facility.
- (E) If an applicant proposes to develop only a portion of that property, a stormwater drainage facility to serve that portion of the property proposed for immediate development or use is required, unless the director determines that construction or improvement of a drainage facility outside that portion of the property to be developed is essential to the development or use of the property to be developed.
- (F) The applicant must provide adequate off-site drainage improvements to accommodate the full effects of the development. The City may assist the applicant in the acquisition of an interest in property necessary to provide an off-site improvement, if the applicant:
 - (1) Certifies by affidavit that a bona fide attempt to provide the off-site drainage improvements has not been successful; and
 - (2) Provides an adequate guarantee that the applicant will:
 - (a) Finance the entire cost of acquiring the necessary property interest; and
 - (b) Retain full responsibility for construction of the required off-site improvement.

23-10E-5020 Dedication of Easements and Rights-of-Way

- (A) The applicant must dedicate to the public an easement or right-of-way for a drainage facility, open or enclosed, and stormwater flow to the limits of the 100-year floodplain, as prescribed in the Drainage Criteria Manual.

- (B) An easement or right-of-way required by Subsection 23-10-5020 (A) must be of sufficient width to provide continuous access for the operation, maintenance, or repair of a drainage facility, as prescribed in the Drainage Criteria Manual.
- (C) The applicant must dedicate any additional easement or right-of-way that is necessary to allow continuous access for the operation, maintenance, or rehabilitation of a drainage facility.
- (D) A part of a lot or tract of land that is located in an easement or right-of-way required by this section may be included as part of the area of the lot or tract of land in the calculation of density or impervious cover.
- (E) For property in the full-purpose limits of the City, the director may grant a variance to Subsection (A) if the director determines:
 - (1) Development with the variance does not result in additional adverse flooding of other property; and
 - (2) The development:
 - (a) Is allowed by a variance granted under Section 23-10E-4020(C) (Encroachment on Floodplain Prohibited);
 - (b) Is allowed in a floodplain under Section 23-10E-4030 (General Exceptions), Section 23-10E-4040 (Standards in Central Business Area), Section 23-10E-4050 (Standards for Parking Areas), or Section 23-10E-4060 (Standards in the 25-Year Floodplain);
 - (c) Is not a building or parking area; or
 - (d) Is a nonconforming use, as defined by Division 23-11B-1, Appendix G, Section G102.3 (Nonconforming Uses).

23-10E-5030 Detention Basin Maintenance and Inspection

- (A) For a commercial, civic, industrial, or multi-family development:
 - (1) The record owner of the development must maintain the detention basin serving the development in compliance with the Drainage Criteria Manual, whether or not the basin is located on the same property as the development. The record owner must provide the City proof of the right to access and maintain the basin if it is not located on the same property as the development.
 - (2) If more than one development is served by a single detention basin, the record owners of the basin and all developments served by the basin must be jointly and severally responsible for maintenance of the basin in compliance with the Drainage Criteria Manual.
 - (3) The City shall inspect each detention basin that is not a subsurface basin at least once every three years to ensure that the basin is being maintained in compliance with the Drainage Criteria Manual. If the basin fails inspection requiring an additional inspection, the director may charge a re-inspection fee.
 - (4) The record owner of a subsurface detention basin must provide the Watershed Protection Department with a maintenance plan and an annual report from an engineer verifying that the basin is in proper operating condition.
- (B) For a duplex or single-family development:

- (1) The City shall be responsible for maintenance of the detention basin only after the basin has been accepted for maintenance by the City.
 - (2) The City will accept a detention basin for maintenance upon determining that it meets all standards of the Drainage Criteria Manual.
 - (3) Until the City accepts a detention basin for maintenance, the record owner(s) of the basin and the development served must maintain the basin in compliance with the Drainage Criteria Manual.
- (C) The director may authorize an alternative arrangement for maintenance of a detention basin in compliance with the Drainage Criteria Manual. If an alternative arrangement is approved by the director, the city attorney shall determine whether an agreement is necessary; the agreement must be approved by the city attorney and filed of record.

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Technical Codes

(work in-progress)



[PC Motion #104](#)

Recommend approval of Chapter 23-11 with amendments previously approved and the following additional changes:

1. Technical Criteria Manuals go through a public process that are ultimately discussed at Planning Commission and possibly Council.

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Article 23-11C: Administration of Technical Codes

Revisions to the Technical Manuals are beyond the scope of CodeNEXT and will need to be updated after City Council takes action on the Code. The process to amend the Technical Manuals remains the same and will continue to be done via a rules posting process.

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Article 23-11C: Administration of Technical Codes

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Airport Hazard and Compatible Land Use



[PC Motion #100](#)

Recommend approval of Chapter 23-5, 23-7, 23-8, 23-9, 23-10, 23-12, and 23-13 with amendments previously approved

In Article 23-13: Definitions and Measurements, revise the definition of Microbrewery from 15,000 barrels to 5,000 barrels, and review Draft 3 for any terms that have been left undefined, using motions from Planning Commission CodeNEXT Draft 3 Deliberation Spreadsheet as guidance.

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23-12A-1010 Imaginary Surfaces and Airport Hazard Zones Described

- (A) Code of Federal Regulations Title 14, Part 77, Subpart C establishes the following imaginary surfaces for the airport:
 - (1) Approach surface;
 - (2) Conical surface;
 - (3) Horizontal surface;
 - (4) Primary surface; and
 - (5) Transitional surface.
- (B) Airport hazard zones are established as follows:
 - (1) Land beneath an approach surface is included in an approach zone;
 - (2) Land beneath a conical surface is included in a conical zone;
 - (3) Land beneath a horizontal surface is included in a horizontal zone; and
 - (4) Land beneath a transitional surface is included in a transitional zone.
- (C) The airport hazard zones described in this section are depicted on an Airport Hazard Zone Map on file with the City Department of Aviation.

Source: Ord. 010809-78; Ord. 031211-11.

23-12A-1020 Height Limits

- (A) Except as provided in Subsection 23-12A-1020.B and Division 23-12A-3 (Nonconforming Uses, Structures, And Objects; Marking And Lighting), a person may not allow a structure or object of natural growth to exceed the height limits of this subsection.
 - (1) For an approach zone, the maximum height coincides with the elevation of the approach surface.
 - (2) For a conical zone, the maximum height coincides with the elevation of the conical surface.
 - (3) For a horizontal zone, the maximum height coincides with the elevation of the horizontal surface.
 - (4) For a transitional zone, the maximum height coincides with the elevation of the transitional surface.

- (B) The height limits of Subsection 23-12A-1020.A do not apply to a structure or object of natural growth with a maximum height of 50 feet above the natural ground level.

Source: Ord. 010809-78; Ord. 031211-11.

23-12A-1030 Airport Hazards Described and Prohibited

- (A) An airport hazard is a land use, structure, or object of natural growth located in the controlled compatible land use area that:
- (1) Exceeds the height limits of Division 23-12A-1020 (Height Limits);
 - (2) Interferes with visual, radar, radio, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft;
 - (3) Interferes with a pilot's ability to distinguish between airport lights and other lights, results in glare in the eyes of a pilot, or impairs visibility in the vicinity of the airport;
 - (4) Creates a wildlife hazard, as defined by Code of Federal Regulations Title 14, Part 139; or
 - (5) Otherwise endangers or interferes with the landing, taking off, or maneuvering of an aircraft.
- (B) Except as provided in Division 23-12A-3 (Nonconforming Uses, Structures, And Objects; Marking And Lighting), a person may not create or maintain an airport hazard.

Source: Ord. 010809-78; Ord. 020418-18; Ord. 031211-11.

Division 23-12A-2: Compatible Land Uses

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23-12A-2010 Airport Overlay Zones

- (A) Within the controlled compatible land use area, the following airport overlay zones are created:
- (1) Airport overlay zone one (AO-1) consists of the portions of the controlled compatible land use area that have a yearly day-night average sound level of at least 70 decibels and not more than 75 decibels.
 - (2) Airport overlay zone two (AO-2) consists of the portions of the controlled compatible land use area that have a yearly day-night average sound level of at least 65 decibels and not more than 70 decibels.
 - (3) Airport overlay zone one (AO-3) consists of the portions of the controlled compatible land use area that have a yearly day-night average sound level of less than 65 decibels and are located within approximately one-half mile of the 65 decibel contour line.
- (B) The controlled compatible land use area and the airport overlay zones are depicted on the Austin-Bergstrom International Airport Land Use Map on file with the City Department of Aviation. The director of the Department of Aviation shall determine the location or meaning of a boundary or other feature on the map.

Source: Ord. 010809-78; Ord. 031211-11.

23-12A-2020 Restriction on Land Used

In the controlled compatible land use area, a person may not engage in a land use unless:

- (A) The land use is permitted under this article; and
- (B) In the zoning jurisdiction, the land use is permitted under Chapter 25-2 (Zoning).

Source: Ord. 010809-78; Ord. 031211-11.

23-12A-2030 Determination of Land Use Classification

The director shall determine the appropriate land use classification for an existing or proposed use or activity.

Source: Ord. 010809-78; Ord. 031211-11.

23-12A-2040 Airport Overlay Land Use Table

- (A) The Airport Overlay Land Use Table in Subsection 23-12A-2040(C) prescribes the land uses that are permitted, permitted under certain conditions including noise level reduction measures, or prohibited in the airport overlay zones. Chapter 25-12, Article 1, Division 2 (Noise Level Reduction Measures For Certain Airport Compatible Land Uses) prescribes the noise level reduction measures required by this section for certain land uses.
- (B) In the Airport Overlay Land Use Table:
- (1) "P" means the land use and related structures are permitted.
 - (2) "P-25db" means the land use and related structures are permitted, but measures to achieve a minimum outdoor-to-indoor noise level reduction of 25 decibels are required for a structure.
 - (3) "P-30db" means the land use and related structures are permitted, but measures to achieve a minimum outdoor-to-indoor noise level reduction of 30 decibels are required for a structure.
 - (4) "P-25db certain areas" means the land use and related structures are permitted, but measures to achieve a minimum outdoor-to-indoor noise level reduction of 25 decibels are required for a portion of a building that is a public reception area, an office, a noise sensitive area, or an area where the normal noise level is low.
 - (5) "P-sound system" means the land use and related structures are permitted, but a special sound reinforcement system is required.
 - (6) "P-25db residential" means the land use and related structures are permitted, but measures to achieve a minimum outdoor-to-indoor noise level reduction of 25 decibels are required for a residential building.
 - (7) "P-30db residential" means the land use and related structures are permitted, but measures to achieve a minimum outdoor-to-indoor noise level reduction of 30 decibels are required for a residential building.
 - (8) "R" means that the land use and related structures are restricted by Section 23-12A-2050 (Residential And School Uses In Airport Overlay Zone Three).
 - (9) "X" means the land use and related structures are prohibited.

(C) Airport Overlay Land Use Table.

Table 23-12A-2040(C) Allowed Uses in Residential House-Scale Zones			
Use Type	A0-1	A0-2	A0-3
Residential			
All residential	X	X	R
Public Uses			
Schools	X	X	R
Hospitals and nursing homes	P-30db	P-30db	P-25db
Churches, auditoriums, and concert halls	P-30db	P-30db	P-25db
Government services	P-25db	P	P
Transportation	P-25db certain areas	P	P
Parking	P-25db certain areas	P	P
Commercial Uses			
Hotel or motel	P-30db	P-25db	P-25db
Offices, business and professional	P-25db	P	P
Wholesale and retail - building materials, hardware, and farm equipment	P-25db certain areas	P	P
Retail trade - general	P-25db	P	P
Utilities	P-25db certain areas	P	P
Communication	P-25db	P	P
Manufacturing and Production Uses			
Manufacturing, general	P-25db certain areas	P	P
Photographic and optical	P-25db	P	P
Farming, ranching, and forestry	P-30db residential	P-25db residential	P-25db residential
Mining and fishing, resource production and extraction	P	P	P
Recreational Uses			
Outdoor sports arenas and spectator sports	P-sound system	P-sound system	P-sound system
Outdoor music shells, amphitheaters	X	X	X
Nature exhibits and zoos	X	P	P
Amusements, parks, resorts, and camps	P	P	P
Golf courses, riding stables, and water recreation	P-25db	P	P

Source: Ord. 010809-78; Ord. 031211-11.

23-12A-2050 Residential and School Uses in Airport Overlay Zone Three

- (A) This section applies to a residential use or a school use located in airport overlay zone three.
- (B) The uses are permitted only on property that:
 - (1) Is included in a recorded final plat on August 20, 2001;
 - (2) Is located in a municipal utility district on August 20, 2001; or
 - (3) Is located in a neighborhood plan combining district on December 31, 2001.
- (C) Except as provided in Subsection 23-12A-2050.D, the noise level reduction measures prescribed by Section 25-12-12 (Measures To Achieve A Noise Level Reduction Of 25 Decibels) are required.
- (D) This subsection applies to a structure constructed before August 20, 2001.
 - (1) Noise level reduction measures are required. For the original structure, this requirement is satisfied by:
 - (a) Compliance with the Energy Code in effect on August 20, 2001; or
 - (b) Incorporation of measures to achieve an outdoor-to-indoor noise level reduction of at least 25 decibels, as determined by the building official.
 - (2) A portion of the structure that is replaced, rebuilt, or expanded must comply with the noise level reduction measures prescribed by Section 25-12-12 (Measures To Achieve A Noise Level Reduction Of 25 Decibels).
- (E) A use or related structure that does not meet the requirements of this section is prohibited.

Source: Ord. 010809-78; Ord. 031211-11.

Division 23-12A-3: Nonconforming Uses, Structures, and Objects; Marking and Lighting

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23-12A-3010 Limitation on Requirements for Nonconforming Uses, Structures, and Objects

Except as otherwise provided in this article, this chapter does not require:

- (A) A change in a nonconforming land use;
- (B) The removal, lowering, or other change of a nonconforming structure or object of natural growth; or
- (C) Any other interference in the continuation of a nonconforming land use.

Source: Ord. 010809-78; Ord. 031211-11.

23-12A-3020 Abandonment of Nonconforming Land Use

A person may not resume a nonconforming land use that the director determines has been abandoned.

Source: Ord. 010809-78; Ord. 031211-11.

23-12A-3030 Replacement of Nonconforming Objects of Natural Growth

A person may not replace a nonconforming object of natural growth that has been removed or destroyed.

Source: Ord. 010809-78; Ord. 031211-11.

23-12A-3040 Nonconforming Structures

- (A) Except as otherwise provided in Subsection 23-12A-3040.B and Section 23-12A-4020 (Restriction On Permits), a person may repair, replace, rebuild, or expand a nonconforming structure. The portion of a nonconforming structure that is replaced, rebuilt, or expanded must comply with the noise level reduction measures prescribed by Division 23-12A-2 (Compatible Land Uses), if any.

(B) Maintenance or improvement of a nonconforming structure that is prohibited by Division 23-12A-2 (Compatible Land Uses) is limited to:

- (1) That required by law to comply with minimum health and safety standards; and
- (2) The implementation of outdoor-to-indoor noise level reduction measures.

Source: Ord. 010809-78; Ord. 031211-11.

23-12A-3050 Marking and Lighting

The director or the Board of Adjustment may require as a condition of approval of a permit or variance that the owner of a structure or object of natural growth install, operate, and maintain on the structure or object of natural growth any markers and lights necessary to indicate to aircraft the presence of an airport hazard.

Source: Ord. 010809-78; Ord. 031211-11.

Division 23-12A-4: Permits

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23-12A-4010 Permit Required

- (A) Except as provided in Subsection 23-12A-4010.B, a person must obtain a permit under this chapter from the director before the person may:
 - (1) Construct a new structure;
 - (2) Substantially change or repair an existing structure;
 - (3) Establish a new use, or substantially change an existing use;
 - (4) Replace, rebuild, or substantially change or repair a nonconforming structure;
 - (5) Replace, substantially change, allow to grow higher, or replant a nonconforming object of natural growth.
- (B) A permit under this chapter is not required for a structure or object of natural growth that:
 - (1) Is not more than 75 feet in height above the natural ground level;
 - (2) Does not exceed the height limits of Section 23-12A-1020 (Height Limits); and
 - (3) Is permitted under Division 23-12A-2 (Compatible Land Uses).

Source: Ord. 010809-78; Ord. 031211-11.

23-12A-4020 Restriction on Permits

The director may not issue a permit that allows:

- (A) The establishment of an airport hazard described in Section 23-12A-1030 (Airport Hazards Described And Prohibited);
- (B) The establishment of a use that is prohibited by, or does not conform to the requirements of, Division 23-12A-2 (Compatible Land Uses);
- (C) The height of a nonconforming structure or object of natural growth to become greater than:
 - (1) The height on the date this chapter became applicable to it; or
 - (2) If the height has been reduced since that date, the height on the date of the permit application; or

- (D) A nonconforming structure, object of natural growth, or use that is an airport hazard to become a greater hazard than:
- (1) The hazard presented on the date this chapter became applicable to it; or
 - (2) If the degree of the hazard has been reduced since that date, the hazard presented on the date of the permit application.

Source: Ord. 010809-78; Ord. 031211-11.

23-12A-4030 Permit Issuance

The director shall issue a permit if the application complies with the requirements of this chapter.

Source: Ord. 010809-78; Ord. 031211-11.

Definitions and Measurements



PC Motion #100

Recommend approval of Chapter 23-5, 23-7, 23-8, 23-9, 23-10, 23-12, and 23-13 with amendments previously approved

In Article 23-13: Definitions and Measurements, revise the definition of Microbrewery from 15,000 barrels to 5,000 barrels, and review Draft 3 for any terms that have been left undefined, using motions from Planning Commission CodeNEXT Draft 3 Deliberation Spreadsheet as guidance.

ZAP Motion #18

CodeNEXT lacks crucial definitions. For example, Watershed, Public, Urban Core, and Regional Center are nowhere defined in the text, for instance. Other definitions, like "Private Frontage," are not in the Terms section, Group Residential is not defined, Food sales "on and off site" is not defined, the Medical services definition is not specific enough to know whether hospital services limited uses are permitted, Outdoor Formal and Outdoor Informal uses are not defined. Planning jurisdiction should be deleted as a definition and add a definition for Extra Territorial Jurisdiction (ETJ). Whenever jargon is used, include a definition.

HLC Motion #7

The term preservation should be defined. Commissioners recommend the definition adopted by the Secretary of the Interior.

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Division 23-13A-1: Terms and Measurements

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23-13A-1010 Purpose

This division provides definitions of terms and phrases used in the Land Development Code that are technical or specialized, or that may not reflect common usage.

23-13A-1020 Applicability

- (A) The words and phrases defined in Section 23-13A-1030 (General Terms and Phrases) shall have the meanings shown in that section when used in any chapter of the Land Development Code, unless otherwise provided or clearly required by context. If any of the definitions in this division conflict with definitions in other provisions of the Austin Code, these definitions shall control for the purposes of this Title. If a word is not defined in this division, or in other provisions of the Land Development Code or in the Austin City Code, Section 1-1-2 (General Definitions or 1-1-3 (Words and Phrases), the responsible director shall determine the correct definition with reference to the latest edition of Webster's Dictionary or, for technical terms, a generally accepted professional resource or guide.
- (B) Words and phrases used that are used solely in a particular chapter, article, or division may be defined in the applicable provision rather than in this division.

23-13A-1030 General Terms and Phrases

A. A- Definitions

ACCOUNTABLE OFFICIAL. The City officer or employee designated by this Title or the City manager with a particular administrative or enforcement responsibility.

ADDITION. The enlargement or creation of any new portion of a structure which results in a vertical or horizontal extension of the structure, or results in any new gross floor area that was not present in the structure before construction of the addition.

ADULT. A person 18 years of age or older.

ADULT SPECIFIED ANATOMICAL AREAS. Less than completely and opaquely covered areas including but not limited to:

1. Human genitals or pubic region;
2. Buttock;

23-13A-1030: General Terms and Phrases

PC Motion #65

Add/ amend the below definitions and place in correct location of the Code:

Attached: When used with reference to two or more buildings units, means having one or more common walls or being joined by a roof, covered porch or covered passageway measured 20 feet in depth, perpendicular to the front property line

Detached: Fully separated from any other building, or joined to another building by structural members not constituting an enclosed or covered space

Staff to analyze intent of above language and recommend a definition that encompasses the intent of a clear definable difference.

PC Motion #106

Revise the definition of Residential Gross Floor Area (GFA) to reduce the number of exemptions as follows:

RESIDENTIAL GROSS (GFA) The total enclosed area of all floors in a building with a clear height of more than five feet, measured to the outside surface of the exterior walls. The term excludes ~~loading docks, 1st floor porches, stoops, basements, attics, stories below grade plane, parking facilities, driveways, and enclosed loading berths and off-street maneuvering areas.~~

In exchange, in all Residential Zones, allow for an increase of 0.05 FAR.

3. Female breast below a point immediately above the top of the areola; or
4. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

ADULT SPECIFIED SEXUAL ACTIVITIES:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse, or sodomy; or
3. Erotic touching of human genitals, the pubic region, the buttock, or the female breast.

ADVERSE FLOODING IMPACT. An increase in flood risk or hazards, as defined in the Drainage Criteria Manual.

ADVERSE WATER QUALITY IMPACT. Degradation of water quality, as defined in the Environmental Criteria Manual.

ADVISORY BODY. A City board, commission, or other appointed body that does not make a final decision and whose review is not required by state law.

AFFORDABLE HOUSING. Housing that costs no more than 30 percent of a household's monthly income, as defined by the U.S. Department of Housing and Urban Development.

AGGREGATE. Creating a site on which a structure has been built across two or more lots.

AGRICULTURAL OPERATIONS:

1. Producing crops for human food, animal feed, planting seed, or fiber;
2. Floriculture, viticulture, horticulture, or silviculture;
3. Raising or keeping livestock or poultry;
4. Wildlife management; and
5. Planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

ALLEY. A public or private way to be used primarily for vehicular access to the back or side of a parcel of real property that abuts a street or thoroughfare.

ALTERATION. Any exterior change, demolition, or modification to a structure or to a property, including, but not limited to:

1. Exterior changes to or modifications of structures, architectural details, or visual characteristics;
2. Construction of new structures;
3. Disturbance of archaeological sites or areas; or
4. Placement or removal of exterior objects that affect the exterior qualities of the property.

AMENDED OR AMENDING PLAT. A revised plat that corrects errors or makes minor revisions to a recorded plat as authorized by Section 212.016 of the Local Government Code.

AMPHITHEATER. An outdoor or open-air structure or manmade area specifically designed and used for assembly of 50 or more people and the viewing of an area capable of being used for entertainment and performances.

ANNUAL OCCUPANCY RATE. The hotel-motel occupancy rate for the City, as reported annually by the Texas Economic Development & Tourism Office.

APPROVAL. A final decision granting or approving an application; or an approval granted subject to modifications or conditions.

APPROVAL AUTHORITY. The City officer, employee, or body charged with reviewing and determining whether to approve an application.

APPROVED USE AREA. A site designated in a reclaimed water agreement to receive reclaimed water for an approved use.

ARCHITECTURAL FEATURE. A building element, which alone or as part of a pattern, embodies the style, design, or general arrangement of the exterior of a building or structure, including but not limited to a window sill, belt course, cornice, flue, chimney, eave, box window, awning, or cantilevered bay window.

ATTACHED. When used with reference to two or more buildings, means having one or more common walls or being joined by a roof, covered porch, or covered passageway.

AUSTIN METRO AREA. The five-county metropolitan area that surrounds the City of Austin and includes Bastrop, Caldwell, Hayes, Travis, and Williamson counties.

AWNING. A roof or cover which projects from a wall of a building over a window or door, made of canvas, aluminum or similar material, which may be fixed in place or be retractable.

B. B-Definitions

BALCONY. An exterior floor system projecting from a structure and supported by that structure, with no additional independent supports.

BARTON SPRINGS. The springs that comprise the Barton Springs complex associated with Barton Springs Pool, including Upper Barton, Old Mill, Eliza, and Parthenia Springs.

BARTON SPRINGS ZONE. The Barton Creek watershed and all watersheds that contribute recharge to Barton Springs, including those portions of the Williamson, Slaughter, Onion, Bear and Little Bear Creek watersheds located in the Edwards Aquifer recharge or contributing zones.

BASE ZONE. A zone established by this Title to prescribe basic regulations governing land use and site development.

BASEWALL. The vertical surface of a building beginning at the finished grade up to a level defined by a setback or an architectural treatment, including, but not limited to, a cornice or similar projection or demarcation, that visually separates the base of the building from the upper portion of the building to create a human-scaled base floor.

BLOCK. One or more lots, tracts, or parcels of land bounded by right-of-way, railroads, or subdivision boundary lines.

BLOCK FACE. The aggregate of all the building facades on one side of a block. The block face provides the context for establishing architectural harmony.

BLOCK LENGTH. The horizontal distance measured from one end of the block to the other end along the same right-of-way.

BLOCK PERIMETER. The aggregate of all sides of a block measured along the adjacent right-of-way.

BLOCK SCALE, BUILDING. A building that is individually as large as a block or collectively arranged along a street or thoroughfare to form a continuous facade as long as most or all of a block.

BLUFF. A vertical change in elevation of more than 40 feet and an average gradient greater than 400 percent.

BONUS AREA. The greater of:

1. The gross floor area that exceeds the maximum allowable floor-to-area ratio allowed with the site's primary entitlements; or
2. The gross floor area contained within the portion of a structure that exceeds the maximum height allowed under the site's primary entitlements.

BUFFER. The on-site use of landscaping elements, screening devices, open space, and landforms for reduction of the potentially adverse effects of adjoining, dissimilar land uses.

BUFFER, FOUNDATION. Planted landscape area between any building exterior wall and any portion of a parking lot, driveway, or drive aisle.

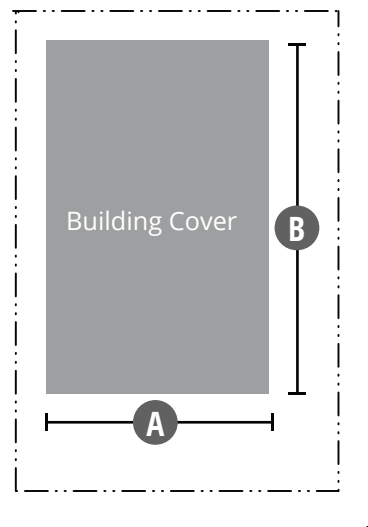
BUILDABLE AREA. The area in which development subject to this Title may occur, and which is defined by the side and rear setbacks required by this Title, together with the area defined by the front, side, and rear yard setbacks and the maximum height limit.

BUILDING. A habitable structure requiring a certificate of occupancy, which consists of one or more of the following foundations that surround an interior space: floors, walls, and roofs. May include, but is not limited to, exterior appurtenant structures such as porches and decks.

1. **EXISTING.** See "Structure, Existing."
2. **PRINCIPAL.** A building in which the principal use is conducted.

BUILDING ARTICULATION. An interruption of the building wall plane with an offset, either recessed or projecting, horizontal, or vertical design element. May include, but is not limited to, the use of attached columns, recessed windows or window bays, horizontal banding, decorative cornices, porches, special entryways, and other specified offsets and projections.

BUILDING COVER. The area of a lot covered by buildings or roofed areas, but excludes ground level paving, landscaping, open recreational facilities, projecting eaves, balconies, and similar features. See Figure (1).



$$\text{Building Cover Area} = \text{A} \times \text{B}$$

Figure 23-13A-1030(1) Building Cover

BUILDING ELEVATION. The exterior wall of a building not adjacent to a public right-of-way, the front or side along a private street, or civic space.

BUILDING ENTRANCE. A point of pedestrian ingress and egress to a building.

1. **PRINCIPAL.** The primary building entrance where the majority of the public enters the building and which is open during all business hours, excluding secondary access through an attached parking garage. For mixed use development in a multi-tenant building, the entrance to each use at the tenant's outside entrance is considered a principal building entrance.

BUILDING FACADE. The exterior wall of a building adjacent to a public right-of-way, the front or side along a private street, or civic space.

BUILDING FACADE RELIEF. Other non-glass materials that differ in texture from the adjacent facade material and are made to be set in frames, as in windows and doors. Examples include, but are not limited to, metal panels, shutters, glass block, and wood panels.

BUILDING FRONTAGE. See "Frontage".

BUILDING SERVICE EQUIPMENT. The plumbing, mechanical, electrical, and elevator equipment necessary for the occupancy or use of a building.

BULKHEAD. A revetment or wall constructed for the purpose of stabilizing or modifying the shoreline.

BUSINESS DAY. A working day and excludes a Saturday, Sunday, an official City holiday, or any other day on which City offices are closed for regular business at any time during normal business hours.

C. C-Definitions

CALIPER (MEASUREMENT). The diameter of the trunk measured six inches above the ground for trees up to and including four-inch diameter, and measured 12 inches above the ground for larger trees. This measurement is used for proposed or nursery-grown trees.

CANYON RIMROCK. A rock substrate that:

1. Has a gradient that exceeds 60 percent for a vertical distance of at least four feet; and
2. Is exposed for at least 50 feet horizontally along the rim of the canyon.

CAPITOL DOME. The part of the State Capitol located more than 653 feet above sea level at Texas Plane Coordinate X-2818555.07, Y-230595.65, being the center of the dome. (23-2 Appendix A Boundaries of the Capitol View Corridor).

CARPORT. A roofed space open on at least two sides used as shelter for a parked vehicle.

CENTRAL BUSINESS AREA. The area bounded by Interstate Highway 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.

CHANGE OF USE. When used in reference to a land use, the replacement of an existing use with a new use, or a change in the nature of an existing use. A change of ownership, tenancy, name, or management is not a change of use, nor is a change in product or service within the same use classification if the nature of the use, line of business, or other function is substantially unchanged from the previous use.

CITY. The City of Austin, Texas.

CIVIC OPEN SPACES

1. **COMMUNITY GARDEN.** Small-scale open space for a grouping of garden plots. See 23-4C-2160 (Community Garden).
2. **GREEN.** A public urban open space of 0.25 to 3 acres that is used for informal recreation and civic activity. See Section 23-4C-2100 (Green).
3. **GREENBELT.** A linear open space of one mile or more. See 23-4C-2070 (Greenbelt).
4. **LINEAR PARK.** See 23-4C-2090 (Linear Park).
5. **NEIGHBORHOOD PARK.** A park of 2 to 3 acres that serves a neighborhood or in conjunction with a greenway or elementary school. See Section 23-4C-2060 (Neighborhood Park).
6. **NATURE SPACE.** An area of 300 square feet or more within an urban open space orientated to playing or engaging with diverse natural elements, materials and organisms. See Section 23-4C-2150 (Nature Space).
7. **PLAZA.** A public urban open space of 0.1 to 1 acre within an urban zone. See Section 23-4C-2120 (Plaza).
8. **POCKET PARK.** A park of no more than two acres intended to provide recreational opportunities where publicly accessible space is limited. See Section 23-4C-2140 (Pocket Park).
9. **POCKET PLAZA/PASEO.** A public urban open space of 400 square feet or more for impromptu seating and gathering and open space that connects buildings or streets. See Section 23-4C-2130 (Pocket Plaza/Paseo).

10. **SQUARE.** A public urban open space of 0.25 to 3 acres. See Section 23-4C-2110 (Square).

11. **STORMWATER AMENITY.** See Section 23-4C-2080 (Stormwater Amenity).

CLOSED MUNICIPAL SOLID WASTE LANDFILL (CMSWL). An area defined as a closed municipal solid waste landfill in Texas Administrative Code, Title 30, Section 330.951.

CLUSTER DOCK. A dock not used for commercial purposes that is associated with:

1. Dwelling units in a multi-family development with lake frontage; or
2. Principal residential buildings in a subdivision with perpetual use rights to a common area that fronts a lake.

COMMERCIAL. A term defining office, service, restaurant, entertainment, or retail uses collectively.

COMMUNITY BENEFIT. When referring to the Downtown Density Bonus Program (DDBP), a public amenity that exceeds the gatekeeper requirements of the DDBP and that is provided by an applicant to obtain bonus area.

COMMON AREAS. A portion of a residential development held in common or single ownership and not reserved for the exclusive use or benefit of an individual tenant or owner and is available for use by all persons who reside in a dwelling unit within the building or on the lot.

COMMON YARD (FRONTAGE TYPE). See Division 23-4E-1 (Private Frontages).

COMMON SIDE LOT LINE. A side lot line between two or more lots.

COMPREHENSIVE PLAN. The plan adopted by the council under Article X, Section 5, of the City charter.

CONDITIONAL USE. A use that is allowed on a discretionary and conditional basis in accordance with the conditional use permit process established in Section 23-4B-1020 (Conditional Use Permit).

CONDEMNATION. A process by which private property is taken or appropriated for the purpose of public use.

CONSTRUCT. Placing or replacing a structure or structurally altering an existing structure.

CORNER LOT. See "Lot."

COST PARTICIPATION. A calculated percentage of hard costs, as set forth in Section 23-10A-3020 (Amount of Cost Participation), plus up to 15 percent of the calculated percentage of hard costs to reimburse soft costs. The sum of these amounts to the entity executing the agreement identified in Section 23-10A-3070 (Agreement).

COUNCIL OR CITY COUNCIL. The Austin City Council.

CRITERIA MANUAL. A manual containing administrative rules adopted under Chapter 1-2 (Adoption of Rules) of the City Code.

CRITICAL ENVIRONMENTAL FEATURES (CEF). Features that are of critical importance to the protection of environmental resources, including, but not limited to, bluffs, canyon rimrocks, caves, faults and fractures, seeps, sinkholes, springs, and wetlands.

CULTURAL USES. Any of the following uses as defined by 23-13A-2030 (Land Uses), including but not limited to:

1. Library, Museum, or Public Art Gallery;
2. Performance Venue/Theater; and
3. Studio: Art, Dance, Martial Arts, Music.

CURB. A vertical sloping structure located along the edge of a roadway, normally constructed integrally with the gutter, that strengthens and protects the pavement edge and clearly defines the pavement edge.

D. D-Definitions

DECENTRALIZED WASTEWATER SYSTEM. A wastewater system other than one that is connected to a City wastewater treatment plant, and includes, but is not limited to, an on-site wastewater disposal system, a cluster wastewater system, or a small wastewater treatment plant.

DEFICIENT PARK AREA MAP. A map depicting areas that the Parks Director has determined lack sufficient parkland based on locational criteria established by the Parkland Dedication Operating Procedures Article 23-3B (Parkland Dedication) and the parkland policies of the Comprehensive Plan.

DENIAL. A final decision denying an application, or as provided under Section 23-2B-2040 (Disapproval and Denial), lack of approval at the time an application expires.

DEPTH-TO-HEIGHT RATIO (MEASUREMENT). The relationship of the depth of a floor space measured perpendicular to a building divided by the average height of the surrounding buildings.

DETACHED. Separate or unconnected.

DEVELOPMENT. Any activity related to the platting of land or construction of buildings or structures, the construction of impervious surfaces, mining or excavation, the installation of utilities, roadways, drainage facilities or other infrastructure; or any disturbance of the surface or subsurface of the land in preparation for the activities, including but not limited to, the removal of vegetation, grading, clearing, cutting, depositing of refuse or waste on land, or removal of soil. Development does not include lawn and yard care, including, but not limited to, mowing, gardening, tree care, and maintenance of landscaped areas; removal of trees or vegetation damaged by natural forces; agricultural activity that is not prohibited by Section 23-3D-8040 (Clearing of Vegetation); or the repair, maintenance, or installation of a utility, drainage or street system that does not disturb land or increase impervious cover.

DEVELOPMENT AGREEMENT. An agreement authorized under Section 212.172 of the Texas Local Government Code and Division 23-2L-2 (General Development Agreements) of this Title.

DEVELOPMENT APPLICATION. An application required under this Title for development, such as an application for subdivision, site plan, or building permit.

DIRECTOR. The director of a City department with the authority to administer and enforce the applicable provisions of this Title. Section 23-1B-3020 (Overview of City Departments) describes functions carried out by directors under this Title.

DISTANCE (MEASUREMENT). A distance is measured from the exterior face of the nearest wall or vertical support of a structure to the line or location. If there is no wall or vertical support, the **director** shall determine the point of measurement.

DISTRICT, UTILITY OR WATER. An authority, including a municipal utility district and a water control and improvement district, created under:

1. Section 52, Article III, or Section 59, Article XVI, Texas Constitution;
2. Title 4, Texas Water Code;
3. Chapters 49, 50 and 54, Texas Water Code; or
4. Special legislation authorized under the Special District Local Laws Code.

DOCK. A wharf, pier, float, floating dock, island, boat dock, boat slip, boat lift, stationary platform, or other similar structure.

DOMESTIC PARTNERSHIP. Adults living in the same household and sharing common resources of life in a close, personal, and intimate relationship.

DOORYARD (FRONTAGE TYPE). See Division 23-4E-1 (Private Frontages).

DRAINAGE EASEMENT. An easement or right-of-way for a drainage facility required by Section 23-10E-5020 (Dedication of Easement).

DRAWINGS. Plans, working drawings, detail drawings, profiles, typical cross sections, or reproductions that show locations, character, dimensions, or details of work.

DRINKING WATER PROTECTION ZONE (DWPZ). The areas within the Barton Springs Zone, the Barton Creek watershed, all water supply rural watersheds, and all water supply suburban watersheds, as described in Section 23-3D-1030 (Descriptions of Regulated Areas), that are in the planning jurisdiction.

DRIVE-IN SERVICE. The sale of products or the provision of services to occupants in vehicles.

DRIVEWAY APPROACH. An area in the right-of-way providing vehicular access from the right-of-way to private or public property.

DRIVEWAY. A surfaced area providing vehicular access within a lot, or shared between two or more lots, usually leading to a garage, other parking or loading area.

DWELLING UNIT. A single unit providing complete facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

E. E-Definitions

EDWARDS AQUIFER. The water-bearing substrata that includes the stratigraphic rock units known as the Edwards Group and Georgetown Formation.

1. **EDWARDS AQUIFER CONTRIBUTING ZONE.** All land generally to the west and upstream of the Edwards Aquifer recharge zone that provides drainage into the Edwards Aquifer recharge zone.
2. **EDWARDS AQUIFER RECHARGE ZONE.** All land over the Edwards Aquifer that recharges the aquifer, as determined by the surface exposure of the geologic units comprising the Edwards Aquifer, including the areas overlain with quaternary terrace deposits.

EFFICIENCY. When used in reference to a dwelling unit, means a dwelling unit containing not more than 400 square feet of floor area, and not having a bedroom or sleeping area separate from the principal living area.

ENCLOSED. A roofed or covered space fully surrounded by walls, including, but not limited to, windows, doors, and similar openings or architectural features, or an open space of less than 100 square feet fully surrounded by a building or walls exceeding eight feet in height.

ENCROACHMENT. Any architectural feature, structure or structural element, such as a gallery, fence, garden wall, porch, stoop, balcony, bay window, terrace or deck, that encroaches into a required setback, or beyond the public frontage, or above a height limit.

ENGINEER. A person licensed to engage in the practice of engineering in the State of Texas.

EROSION HAZARD ZONE. An area where future stream channel erosion is predicted to result in damage to or loss of property, buildings, infrastructure, utilities, or other valued resources.

F. F-Definitions

FACADE. See "Building Facade."

FACADE ZONE. The area between the minimum and maximum setback lines along the front of a parcel and along the side street of a corner parcel. *When there is no maximum setback line, the facade zone is defined as the minimum setback line.* See Figure (2).

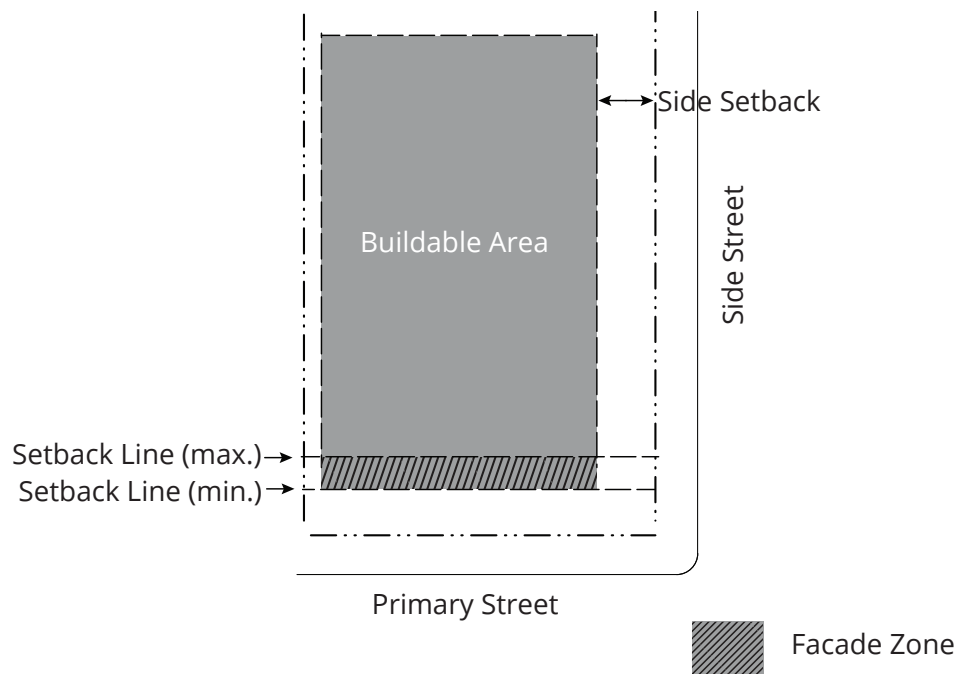


Figure 23-13A-1030(2) Facade Zone

FAULTS AND FRACTURES. Significant fissures or cracks in rock that may permit infiltration of surface water to underground cavities or channels.

FEMA. The Federal Emergency Management Agency.

FENCE. A structure made of wire, wood, metal, or other material; and typically used as a screen or enclosure for a yard or open space, or as a divider along a lot line.

FINISH LEVEL, GROUND FLOOR. The height difference between the finished floor on the ground floor and the adjacent public walk. In the case of a loading dock frontage that serves as the public right-of-way, the floor finish level is the height of the walk above the adjacent street. Regulations for ground floor finish level for ground floor residential uses do not apply to ground floor lobbies and common areas in multi-unit buildings.

FIRE PROTECTION PLAN. A document prepared for a specific project or development proposed for the wildland-urban interface area. It describes ways to minimize and mitigate the fire problems created by the project or development, with the purpose of reducing the effect on the community's fire protection delivery system.

FLAG LOT. See "Lot".

FLOOD INSURANCE RATE MAP. An official map of a community on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOODPLAIN

1. **100-YEAR.** The 100-year floodplain calculated under fully developed conditions as prescribed by the Drainage Criteria Manual.
2. **25-YEAR.** The 25-year floodplain calculated under fully developed conditions as prescribed by the Drainage Criteria Manual.
3. **FEMA.** A special flood hazard area that the Federal Emergency Management Agency has delineated on a flood insurance rate map.
4. **MODIFICATION.** Development that results in any vertical or horizontal change in the cross section of the 100-year floodplain.

FLOOR AREA

1. **COMPREHENSIVE (CFA).** Gross floor area, in addition to **underground facilities, loading docks, parking facilities, and enclosed communication paths.**
2. **FOR PARKING DETERMINATION ONLY.** In the case of retail establishments, the space between exterior walls which is devoted to the display and selling of merchandise, including space occupied by counters, fixture and storage cabinets and shelves. In other cases, unless otherwise stated, the gross floor area.
3. **GROSS (GFA).** The total enclosed area of all floors in a building with a clear height of more than five feet, measured to the outside surface of the exterior walls. The term excludes loading docks, porches, stoops, basements, attics, stories below grade plane, parking facilities, driveways, and enclosed loading berths and off-street maneuvering areas.
4. **RESIDENTIAL GROSS.** Gross floor area **occupied by residents or serving residents without being open to the general public.** Includes areas planned or proposed for these purposes.

FLOOR AREA RATIO (FAR). The ratio of gross floor area to gross site area.

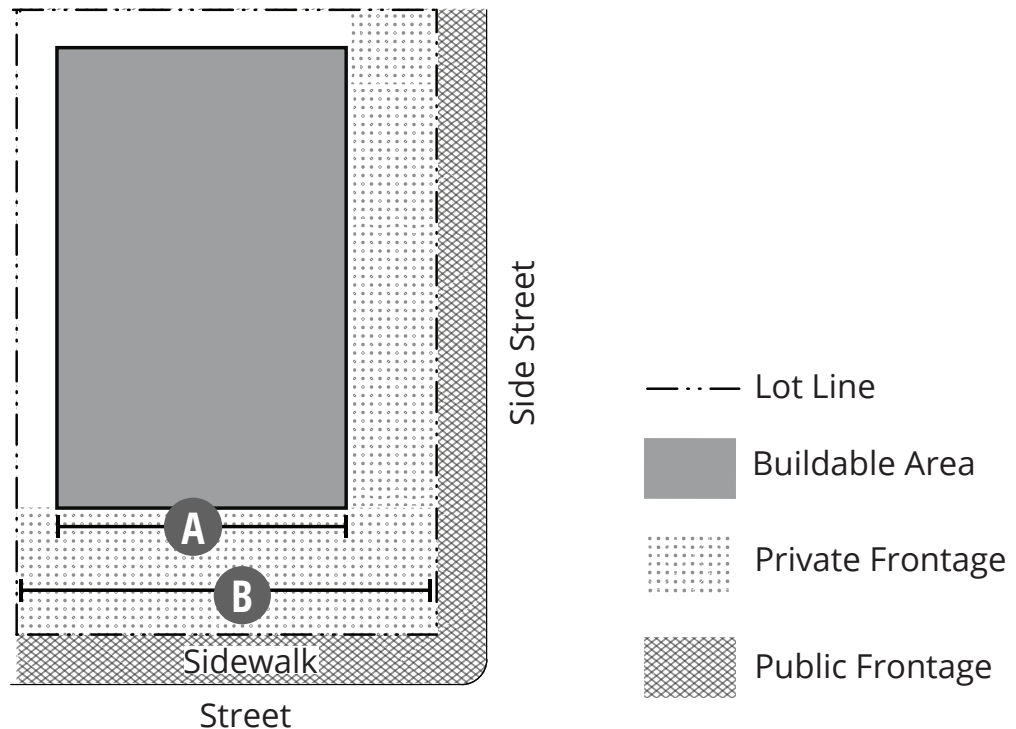
FLOORPLATE. An area measurement in square feet of either the gross or the rentable floor area of a typical floor in a building.

FORECOURT (FRONTAGE TYPE). See Division 23-4E-1 (Private Frontages).

FREESTANDING WALL. A wall that is separate from a building and supported by independent means.

FRONTAGE. The length of the property line of any one premises parallel to and along each public right-of-way which it borders and is identified by an address. See Figure (3).

1. **PRIVATE.** The area between the building facade and the shared lot line between the public right-of-way and the lot.
2. **PUBLIC.** The area between the back of the curb of the vehicular lanes and the edge of the right- of-way.
3. **NET (MEASUREMENT).** Determined by subtracting required internal circulation routes, side or compatibility setbacks, easements, drive aisles, sidewalks, and stairs that occur at the building perimeter from the total property length, as measured along the front lot line from property line to property line. In the case of a curved corner, the responsible director may determine the end point for purposes of measuring net frontage.
4. **LINE.** The lot line(s) of a lot fronting a thoroughfare, roadway, or other public way, or a civic space.



$$\text{Building Frontage Buildout \%} = 100 \times \frac{\text{A}}{\text{B}}$$

Figure 23-13A-1030(3) Frontage

FRONTAGE TYPE. See Division 23-4E-1 (Private Frontages).

FRONT YARD. A yard extending the full width of a lot between the front lot line and the front setback line.

FULL CUT-OFF. A luminaire light distribution where zero candela intensity occurs at or above an angle of 90 degrees above nadir. Additionally, the candela per 1000 lamp lumens does not numerically exceed 100 (10 percent) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

FUNCTIONAL GREEN. The set of landscape code requirements applicable to sites with small to no building setbacks and no surface parking lot. Functional Green landscape code requires the sites to provide a level of ecosystem services comparable to that provided by sites that comply with standard landscape code.

FURNITURE AREA, SIDEWALK. An area of space on a sidewalk that allows for the placement of furniture without restricting the movement of pedestrians.

G. G-Definitions

GABLE. The part of a wall that encloses the end of a pitched roof. See Figure (4).

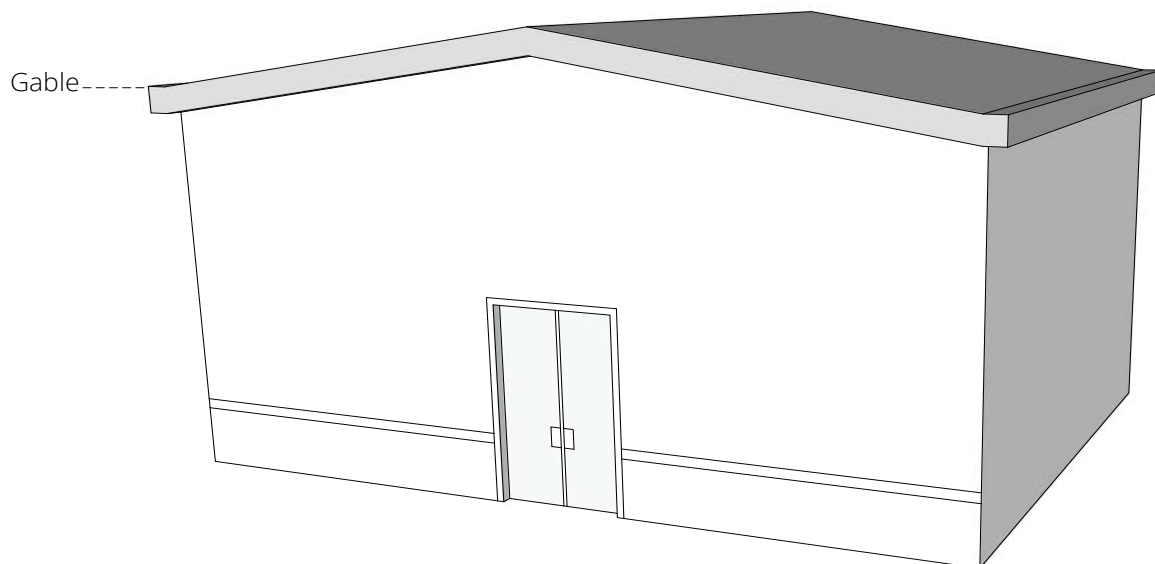


Figure 23-13A-1030(4) Gable

GALLERY (FRONTAGE TYPE). See Division 23-4E-1 (Private Frontages).

GARAGE. A structure used or intended to be used for the parking and storage of motor vehicles.

GARDEN, CITY-SUPPORTED COMMUNITY. Eligible city land controlled under a license agreement or non-city land controlled under a land control document which is issued a garden permit and located in the City corporate limits or extraterritorial jurisdiction by a non-profit organization.

GLAZING. The panes or sheets of glass set in frames, as in windows or doors. Glass includes, but is not limited to, tinted, fritted, vision, spandrel, and other forms of sheet formed glass.

GRADE. See Figure (5).

1. **FINISHED.** The finished ground level at any point along the exterior walls of a structure. If walls are parallel to and within five feet of a sidewalk, alley or other public way, the level above ground shall be measured at the elevation of the sidewalk, alley or public way.
2. **EXISTING.** The grade of a site before it is modified by moving earth, adding or removing fill, or installing a berm, retaining wall, or architectural or landscape feature. The responsible **director** may require an applicant to provide a third-party report that shows the existing, or natural grade, of a site.

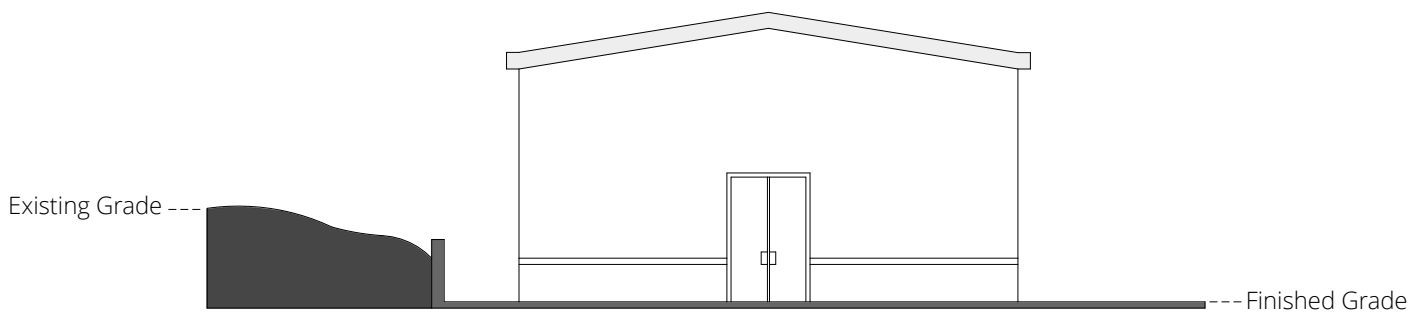


Figure 23-13A-1030(5) Grade

GREAT STREETS STREETSCAPE STANDARDS. Design standards for streets within the boundaries of the Great Streets Master Plan.

GREENFIELD DEVELOPMENT. Development on an undeveloped parcel.

GROSS SITE AREA. The total site area.

GROUND FLOOR. The floor of a building located nearest to the level of the grade around the building.

GROUND-FLOOR SPACE, DEPTH (MEASUREMENT). The distance from the street-facing facade to the rear interior wall of the ground-floor space available to an allowed use.

GUTTER. A shallow water drainage area adjacent to a curb.

H. H-Definitions

HABITABLE SPACE. The portion of a building that is suitable for human occupancy.

HARD COSTS. The actual cost of construction and materials determined after completion and final acceptance of a project.

HARDSCAPE. Nonliving components of a streetscape or landscape design, such as paved walkways, walls, sculpture, patios, stone and gravel areas, benches, fountains, and similar hard-surface areas and objects.

HAZARDOUS PIPELINE. A pipeline designed for the transmission of a “hazardous liquid”, as defined by Title 49, Code of Federal Regulations, Section 195.2, that has an inside diameter of eight inches or more.

HEIGHT. See Figure (6) Height.

1. **PRINCIPAL STRUCTURE.** Height can be determined in two ways: top of top plate; or maximum overall height.
 - a. **OVERALL.** The vertical distance measured from the midpoint of the lowest and highest points of the structure adjacent to the finished grade to the highest point of the structure.
 - b. **TO TOP OF TOP PLATE.** The vertical distance measured from the midpoint of the lowest and highest points of the structure adjacent to the finished grade to the top of the top plate.
2. **ACCESSORY STRUCTURE.** Height, for the purpose of establishing required setbacks, shall be defined for every point within the footprint area of an accessory structure, including a tree house, as the vertical distance between grade and the highest part of the structure directly above. Height in all cases shall include, but is not limited to, any slab, platform, pad, mound or similar elevated base above pre-existing grade.

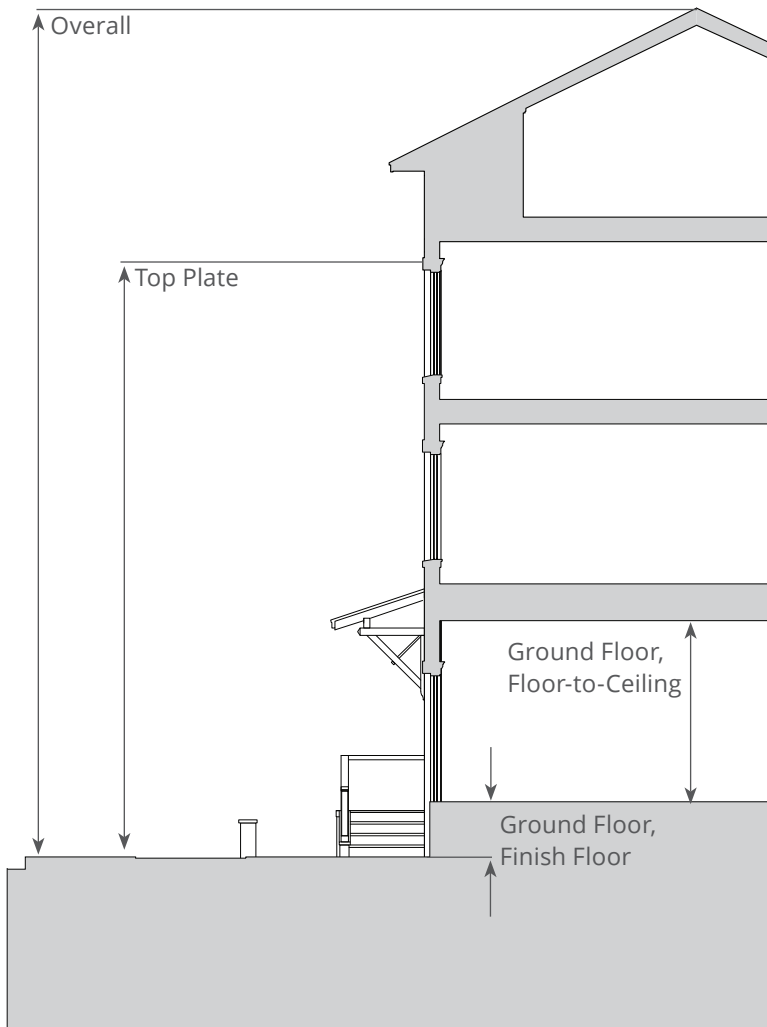


Figure 23-13A-1030(6) Height

3. **FENCE AND WALL (MEASUREMENT).** Determined by measuring the vertical distance between the finished grade at the base of the fence or wall and the top edge of the fence or wall material.
4. **GROUND FLOOR, FLOOR-TO-CEILING.** Height from finished floor to finished ceiling of primary rooms on the ground floor, not including secondary rooms such as bathrooms, closets, utility rooms and storage spaces.
5. **GROUND FLOOR, FINISH FLOOR.** Height from finished grade to the top of the flooring material of the ground floor.

HIGH OPPORTUNITY AREA. An area that provides certain conditions that place individuals in a position to be more likely to succeed and excel. This area must include one or more of the following conditions:

1. Racial and economic integration;
2. Access to employment;
3. High performing schools;
4. Access to fresh and healthy foods;
5. Low levels of poverty;
6. Low crime rate;
7. Access to parks;
8. Minimal environmental hazards; or
9. Is identified in the Comprehensive Plan as a center or corridor.

HOUSING COSTS

1. For an owner-occupied dwelling unit, the average monthly cost for mortgage principal, interest, taxes, insurance, and if applicable, condominium or homeowner's association dues; or
2. For a dwelling unit for lease, the average monthly cost for rent.

HOUSING VOUCHER. A voucher issued by, or under the auspices of, an agency of the United States Government that provides a rental subsidy to the landlord for a particular rental housing unit in an amount equal to or exceeding the difference between 30 percent of the resident's income and the market rate for the residential housing unit.

I. I-Definitions

IMPERVIOUS COVER. The total area of any surface that prevents the infiltration of water into the ground, such as roads, parking areas, and buildings. Impervious cover shall be calculated under the Environmental Criteria Manual and Section 23-3D-3040 (Impervious Cover Calculations).

INFILL. The development of vacant or underutilized land that was bypassed by earlier waves of development and is now largely surrounded by developed land.

IN-HEAD CHECK VALVE. A sprinkler head that contains a valve to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.

INTERESTED PARTY. A person who meets the criteria established by Section 23-2C-2020 (Interested Parties).

INTERLOCAL DEVELOPMENT AGREEMENT. An agreement between the City and any governmental entity, municipal corporation or political subdivision that establishes or modifies standards for the use, maintenance, development, or construction of property containing one or more existing or proposed structures. The term includes new agreements and amendments to existing agreements.

INTERNAL BLOCK. One or more lots, tracts, or parcels of land bounded by internal circulation routes, railroads, or subdivision boundary lines.

INTERNAL CIRCULATION ROUTE. A public street or a publicly-accessible private drive that is constructed to satisfy the requirements in Section 23-4C-1020 (Internal Circulation).

IRRIGATION, AUTOMATIC SYSTEM. An assembly of component parts that is installed, temporarily or permanently, for the controlled distribution of and conservation of water to irrigate any type of landscape vegetation in any location, or to reduce dust or control erosion. Landscape irrigation shall conform with the rules set forth in the Texas Administrative Code, Texas Commission on Environmental Quality rules and the Adopted Plumbing Code.

J. J-Definitions

JOINT-USE DRIVEWAY. A driveway located entirely or partially on a tract or tracts of land that is available for use by an adjoining tract of land as ingress and egress to a public street.

K. K-Definitions

No specialized terms beginning with the letter K are defined at this time.

L. L-Definitions

LAND USE COMMISSION. The Planning Commission or the Zoning and Platting Commission, as determined under Section 23-1B-2030 (Land Use Commission).

LAND USE PLAN. A map showing proposed and existing land uses.

LANDFILL AREA. An area marked on a map created by the City and maintained by the Watershed Director showing all known Closed Municipal Solid Waste Landfills (CMSWL) and including property within the known boundary of a CMSWL, 200 feet around the estimated boundary of a CMSWL if the boundary is not known, or 1,500 feet from the estimated center of the CMSWL if neither a known boundary nor an estimated boundary is known.

LANDFILL TRASH. Discarded material intended for a landfill.

LANDSCAPED AREA. An area devoted to plant material, planters, brick, stone, water, aggregate, and other landscape features, excepting smooth concrete or asphalt, where the use of inorganic materials does not predominate over the use of plants.

LANDSCAPING. The combination of landscape elements in a designed, specific application which meets the purposes of Division 23-4E-4 (Landscape). Landscape elements may include vegetation, such as trees, shrubs, grasses and groundcovers.

LIGHT FIXTURE. The complete lighting assembly (including the lamp, housing, reflectors, lenses, and shields), less the support assembly (pole or mounting bracket).

LIGHTWELL (FRONTAGE TYPE). See Division 23-4E-1 (Private Frontages).

LIMITED ADJUSTMENT. An adjustment to the requirements of Article 23-3D (Water Quality), granted by the city council as allowed in Division 23-2F-3 (Limited Adjustments).

LINER STORE. A commercial use on the ground floor of a building located not more than 30 feet from the street right-of-way with an entrance facing the street.

LIVE MUSIC. The performance of live music in an indoor public or private facility that is open to the general public and readily equipped with sound, staging, lighting and safety accouterments to accommodate professional and semi-professional live music needs on a daily basis

LOADING SPACE. An area used for loading or unloading goods from a vehicle in connection with the use of the site.

LOT. A parcel of real property with a unique designation shown on a plat, record of survey, parcel map, or Subdivision map recorded in the Office of the County Clerk; or a parcel of real property established under zoning or subdivision regulations. See Figure (7).

1. **AREA (MEASUREMENT).** The net horizontal area within the lot lines, excluding the portion of the lot that provides street access or frontage if the lot is a flag lot; or that is located below 492.8 feet of elevation above sea level, if the lot is adjacent to Lake Austin.
2. **CORNER.** A lot located at the intersection of two streets, or of two segments of a curved street, forming an angle of not more than 135 degrees.
3. **DEPTH (MEASUREMENT).** The horizontal distance between the mid-point of the front lot line and the midpoint of the rear lot line.
4. **FLAG.** A lot that abuts a street by means of a strip of land that does not comply with the standard requirements of this Title for minimum lot width.
5. **INTERIOR.** A lot other than a corner lot.
6. **IRREGULAR.** A lot bounded by three lot lines, or with a non-rectilinear shape. For establishing required setbacks and other dimensional requirements, the **director** may determine points of measurement.
7. **NONCONFORMING.** A legally created lot which does not conform with current standards for area, width, frontage or other standards for the zone in which the lot is located because of annexation or amendments to this Title.
8. **THROUGH.** A lot, other than a corner lot, with access to more than one street.
9. **SUBSTANDARD.** A lot or tract recorded by deed or plat that does not comply with current area, width, or depth requirements, but that complied with the requirements in effect when it was placed on record.
10. **WIDTH.** The distance between side lot lines.

11. **WIDTH (MEASUREMENT).** Distance between side lot lines measured parallel to front lot line and at the minimum front setback line.

LOT LINE. A line or series of connected line segments bounding a lot.

1. **FRONT**

- a. For an interior lot, the lot line abutting the street;
- b. For a corner lot, the lot line designated as the front lot line by a subdivision or parcel map, or, if none, the shorter lot line abutting a street;
- c. For a through lot, the lot line abutting the street that provides the primary access to the lot; and
- d. For a flag lot, the lot line designated as the front lot line by a Subdivision or parcel map, or if none, the line determined by the **director** to be the front lot line.

2. **REAR.** The lot line that does not intersect the front lot line.

3. **SIDE.** A lot line intersecting the front lot line.

- a. **COMMON SIDE.** A side lot line between two or more lots.
- b. **STREET SIDE.** A side lot line abutting a ROW.

M. M-Definitions

MAIN BODY. The primary massing of a building.

MAINTENANCE EASEMENT. When used in reference to a small lot, means an easement granted by the owner of one lot to the owner of an adjoining lot for maintenance of a dwelling within five feet of a common side lot line.

MANUFACTURED HOME. As defined more specifically in the Building Criteria Manual, a movable dwelling constructed on a chassis, designed for use without a permanent foundation, and designed to be connected to utilities. The term excludes manufactured modular housing designed to be set on a permanent foundation and recreational vehicles.

MANUFACTURED HOME SPACE. An area in a manufactured home park that is designed for and designated as the location for a single manufactured home and the exclusive use of its occupants.

MANUFACTURED HOME STAND. The portion of a manufactured home space on which the mobile home is placed.

MANUFACTURED HOME PARK. A unified development of manufactured home spaces for rent or lease, including, but not limited to, common areas and facilities for management, recreation, laundry and utility services, storage, and similar services for the convenience of residents.

MASSING. The overall shape or arrangement of the bulk or volume of a building.

MEDIAN FAMILY INCOME. The median family income for the Austin statistical metropolitan area as determined by the Housing Director.

MINOR ADJUSTMENT. An adjustment authorized under Section 23-2F-2040 (Administrative Adjustments) in limited circumstances, to address inadvertent errors in construction.

MINOR USE. A use allowed on a discretionary and conditional basis in accordance with the minor use permit established in Section 23-4B-1030 (Minor Use Permit).

MIRRORED GLASS. Glass with a reflectivity index greater than 20 percent.

MOTORBOAT. A watercraft propelled by an internal combustion engine or electric motor.

MULCH. A layer of material applied to the surface of an area of soil. Its purpose is to conserve moisture, reduce extreme soil temperature, improve the fertility and health of the soil, and to reduce weed growth. When applied correctly can dramatically improve soil productivity. Organic mulches are materials such as leaves, grass clippings, peat moss, wood chips, bark chips, seed hulls, cardboard or shredded newspaper, or low growing plants/groundcover.

MULTI-FAMILY REDEVELOPMENT. The demolition, partial demolition, redevelopment, rezoning, or change in use of a multi-family building, or any portion of a multi-family building, or a manufactured home.

MULTI-USE TRAIL. A facility designated for the use of pedestrians, bicycles, or other non-motorized users and associated bridges.

MUNICIPAL UTILITY DISTRICT. A district created under Chapters 50 and 54 of the Texas Water Code.

MUNICIPAL WASTEWATER. Wastewater collected from dwelling units, commercial buildings, and institutions including process wastes of industry, groundwater infiltration, miscellaneous waste liquids, spent water from building water supply, and waste materials from bathrooms, kitchens, and laundries.

N. N-Definitions

NEIGHBORHOOD ORGANIZATION. An association that has registered as a neighborhood organization under this Title.

NEIGHBORHOOD PLAN CONTACT TEAM. The individuals designated to implement an adopted neighborhood plan. The neighborhood plan contact team is a neighborhood organization that qualifies as an interested party for purposes of notice, appeal, and other processes if all other qualifications for interested party status are satisfied. The neighborhood plan contact team is a separate body apart from any other existing or future neighborhood organization.

NEW DEVELOPMENT. When referring to water regulations, the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units for water or wastewater service, and includes the sale of water or wastewater taps resulting from the conversion of an individual well, or of an individual waste disposal system, to the City's water and wastewater system.

NONCONFORMING USE. A land use or activity that does not conform to current use regulations, but did conform to the use regulations in effect at the time the use was

established. The land use or activity meets the requirements of Section 23-2G-1020 (Nonconforming Status).

NORMAL POOL ELEVATION. For the following lakes:

1. Lake Austin, 492.8 feet above mean sea level;
2. Lady Bird Lake, 429 feet above mean sea level; and
3. Lake Walter E. Long, 554.5 feet above mean sea level.

NOTICE OWNER. The owner of real property as shown on the records of the tax appraisal district in the county in which the property is located.

O. O-Definitions

OCCUPANCY. A building or portion of a building that is used or intended to be used. The term also includes the building or room housing the use. Change of occupancy is not intended to include change of tenants or owners.

OCCUPANT SPACE. Space in a building used for a use other than a parking facility or a mechanical facility.

OPEN SPACE

1. **CIVIC.** Open space that is available for use by the public, and includes, but is not limited to, a plaza, square, park, playground, greenbelt, or similar area.
2. **COMMON.** A privately-owned outdoor or unenclosed area intended for use by the residents, employees, or visitors to a development.
3. **PERSONAL.** A privately-owned outdoor or unenclosed area intended for use solely by the individual. Commonly associated with open space required for residents of a multi-family dwelling unit.

ORGANICS DIVERSION. Organic material recovered, collected, or otherwise diverted from the non-hazardous waste stream, a substantial portion of which will decompose in a managed compost operation.

OVERHEAD DOORS. Doors constructed in horizontally hinged sections that are equipped with hardware that rolls the sections into an overhead position, clear of the opening.

OVERLAY ZONE. A zone established by this Title to prescribe regulations to be applied to a site in combination with regulations applicable to a base zone.

OVERSIZED. With reference to a water or wastewater main or facility, means an increase in the size or capacity of the main or facility above the minimum size or capacity required by the Utilities Criteria Manual, including fire flow requirements, that is necessary to provide utility service to meet the projected demands of the property to be served.

OWNER OR PROPERTY OWNER. A person or entity with legal title to a particular property.

P. P-Definitions

PAD-SITE BUILDING. A building that is intended for a single commercial use and that is physically separate from the other buildings on the site. Typically used in the context of retail shopping center development, a building or building site that is physically separate from and smaller than the principal building and reserved for free-standing

commercial uses. Typical pad site uses include, by way of illustration only, free-standing restaurants, banks, and service stations.

PARAPET. A low wall that rises above the roof line and extends along the edge of a roof or the portion of the roof, or along a roof deck. In reference to height, means to the top of the parapet. See Figure (8).

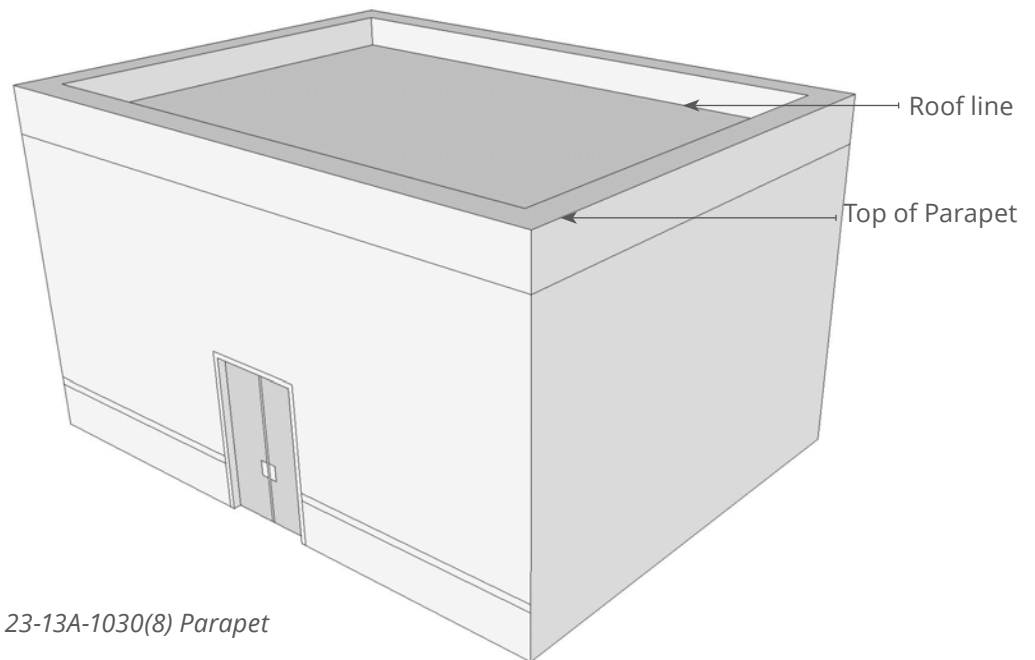


Figure 23-13A-1030(8) Parapet

PARCEL. A piece of land that might have been split many years ago, but is not part of a subdivision.

PARKING DRIVEWAY WIDTH (MEASUREMENT). The horizontal measurement of an access driveway to a parking area, measured perpendicular to the direction of travel.

PARKING MANAGEMENT DISTRICT. An area defined by separate ordinance, consisting of a geographic area that may include, but is not limited to, a mix of retail, entertainment, commercial, medical, educational, civic, and residential uses, in which council finds that traffic flow on the public streets requires a higher level of management than commonly provided, and where council finds parking meters will aid traffic flow goals. Council also finds a percentage of funds from paid on-street parking and off-street paid public parking within the district may be used to undertake improvement projects that assist in managing the flow or demand for travel to confer public benefits within the district.

PARKING

1. **SHARED.** Any parking spaces assigned to more than one user, where different persons utilizing the spaces are unlikely to need the spaces at the same time of day.
2. **SPACE.** An area designated for parking a motor vehicle.

3. **STRUCTURE.** A structure that includes five or more off-street parking spaces together with driveways, maneuvering areas, and similar features.
4. **TANDEM.** A parking space deep enough to allow two cars to park, one behind the other.

PARKING LOT. An off-street, uncovered, paved facility used for parking motor vehicles.

PARKLAND DEDICATION URBAN CORE. An area bound by Highway 71/Ben White Boulevard to the south; Highway 183 to the east and north; Loop 1 (MOPAC) on the west to FM 2222; FM 2222 on the north to Loop 360; Loop 360 on the west to Lake Austin; Lake Austin on the west to Loop 1 (MOPAC); and Loop 1 (MOPAC) on the west to Highway 71 (Ben White); [A copy of map can be found in City offices.]

PATH OF TRAVEL. A continuous, unobstructed way of pedestrian passage.

PEDESTRIAN ORIENTED USES. A use that serves the public by providing goods or services and includes the following uses:

1. Library, museum, or public art gallery;
2. General retail w/ on-site production;
3. Bar/nightclub;
4. Business and financial/professional services, excluding a standalone ATM;
5. Day care (small, large, or commercial);
6. Food sales;
7. General retail;
8. Hotel/Motel;
9. Performance Venue/Theater;
10. Recreation-Outdoor, Informal;
11. Residential uses;
12. Restaurants with or without alcohol sales and without drive-through service;
13. Brewpub, micro-brewery, and micro-distillery; and
14. Other uses as determined by the Land Use Commission.

PEDESTRIAN WAY. The portion of a street right-of-way not used for a roadway.

PERMITTED USE. Uses that are allowed by right and are not subject to the conditions of approval, mandatory review periods, or expiration periods as required for conditional use permits, minor use permits, or other discretionary approvals.

PERSONAL WATERCRAFT. A type of motorboat, including a jet ski, specifically designed to be operated by a person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel and that is less than 13 feet in length.

PETITION OR ANNEXATION PETITION. The written request to the City for consent to the creation of or annexation to a water district required by the Texas Water Code and any document required by City rules.

PHOTOVOLTAICS, BUILDING INTEGRATED. A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the facade, which does not alter the relief of the roof.

PLANNED UNIT DEVELOPMENT. Land developed as a single unit under unified control.

PLANNING JURISDICTION. The areas of the City **designated** for full or limited purposes, and the City's extraterritorial jurisdiction.

PLANTED LANDSCAPE AREA. Area of ground surface completely covered by living plant materials including, but not limited to, trees, shrubs and grasses, groundcovers, perennials, and annuals.

PLAT. A map of specific land showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys and easements drawn to scale. "Plat" is synonymous with "Final Plat".

POINT RECHARGE FEATURE. A cave, sinkhole, fault, joint, or other natural feature that lies over the Edwards Aquifer recharge zone and that may transmit a significant amount of surface water into the subsurface strata.

PORCH (FRONTAGE TYPE). A covered shelter projecting.

1. **ENGAGED.** See Division 23-4E-1 (Private Frontages).
2. **PROJECTING.** See Division 23-4E-1 (Private Frontages).

PORTICO. See Awning.

PRELIMINARY PLAN. A map or drawing of a proposed plat, intended for consideration by the Land Use Commission or the council under the requirements of this Chapter 23-5 (Subdivision).

PRIMARY ENTITLEMENT. The height and floor-to-area ratio entitlement that a site derives from its current zoning. That entitlement may be derived from the base zoning or from a previous modification to the base zoning.

PRIMARY STREET. The primary street of a lot or site is the street with the highest priority that is adjacent to the lot or site.

PRINCIPAL USE. The primary function of a site, building, or facility.

PROCESSOR. A facility that sorts, crushes, grinds, composts, or recycles materials.

PROPERTY. Real property.

PUBLICLY ACCESSIBLE ON-SITE PLAZA. A publicly-accessible area that complies with the Downtown Public Plaza Standards adopted by administrative rule.

Q. Q-Definitions

QUEUE LANE. An access area for the use of motor vehicles while awaiting service or other activity at facility.

QUEUE SPACE. A space for a motor vehicle in a queue lane.

R. R-Definitions

RECLAIMED WATER. Reclaimed municipal wastewater that is under the direct control of the City treatment plants, satellite facilities, or a treatment plant with which the City contracts, and that has been treated to a quality that meets or exceeds 30 Texas Administrative Code, Chapter 210 requirements.

1. **APPROVED USE.** An application of reclaimed water authorized by a reclaimed water agreement.
2. **APPROVED USE AREA.** A site designated in a reclaimed water agreement to receive reclaimed water for an approved use.
3. **FACILITY.** An apparatus or improvement that is used in conjunction with a water or wastewater facility that provides water or wastewater service to a property, regardless of where the facility is located. The term includes a lift station, force main, wastewater treatment plant, pump station, reservoir, pressure reducing valve station, a decentralized wastewater system component, alternative wastewater system, or an addition to an existing facility that increases the capability of the existing facility to provide water or wastewater service.
 - a. **OFF-SITE.** Reclaimed water distribution, storage, or delivery facilities upstream of the Reclaimed Water Point of Connection to a Reclaimed Water Approved Use Area.
 - b. **ON-SITE.** Reclaimed water distribution facilities downstream of the Reclaimed Water Point of Connection to a Reclaimed Water Approved Use Area.
4. **INDUSTRIAL USE.** An approved use of reclaimed water for industrial or commercial processes as defined by 30 Texas Administrative Code, Chapter 210.
5. **IRRIGATION USE.** An approved use of reclaimed water for landscape, horticultural, or agricultural irrigation as defined by 30 Texas Administrative Code, Chapter 210.
6. **POINT OF CONNECTION.** A location where off-site facilities connect to on-site facilities, at the downstream end of Austin Water's reclaimed water service meter.
7. **SERVICE.** Furnishing reclaimed water to a user through a metered connection to on-site facilities.
8. **USER.** As set forth in Article 23-10D (Reclaimed Water), means a party to a reclaimed water agreement with the City.

RECORD OWNER. The owner of real property as shown by the deed records of the county in which the property is located.

RECREATIONAL VEHICLE. A vehicle or trailer designed for temporary dwelling or recreational purposes, and includes, but is not limited to, travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks and buses, boats, and boat trailers.

RECYCLING. A process by which materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete are collected, separated, composted, or processed, and returned to use in the form of raw materials in the production of new products. The definition of recycling does not include waste-to-energy processes, placement in a disposal facility, or use as daily cover in a disposal facility.

RELEASE. The written certification of the director that a site plan has been approved, that the site plan complies with this Title, and that the conditions of approval for the site plan have been satisfied; or the written certification of the director and the presiding officer of the Land Use Commission, that a plat has been approved, that the plat complies with this Title, and that the conditions of approval for the plat have been satisfied.

REPLAT. A final plat that includes only unplatted land from a vacated plat.

RESIDENTIAL. A term used primarily to describe uses intended for human habitation.

RESPONSIBLE DIRECTOR. The director of a department designated by the city manager, with responsibility to administer, implement, and enforce particular regulations of this Title. The term includes the director's designee.

RESTRICTED PIPELINE AREA. An area within 25 feet of a hazardous pipeline and an area within a hazardous pipeline easement.

RESUBDIVISION PLAT. A plat that is controlling over the preceding plat without vacation of that plat, and complies with Sec. 212.014 of the Local Government Code, as amended.

REVIEW AUTHORITY. The City officer, employee, or body charged with reviewing and determining whether to approve an application.

REVISION. A change in an approved or released plan that is initiated by an applicant.

RIGHT-OF-WAY. Land dedicated or reserved for streets, utilities, or other public facilities.

ROADWAY. The portion of a right-of-way used for vehicular travel.

S. S-Definitions

SCENIC VISTA. A generally recognizable, noteworthy view of:

1. Barton Creek;
2. Bull Creek;
3. West Bull Creek;
4. Lake Austin;
5. Lake Travis;
6. A valley of the Colorado River; or
7. The downtown area of Austin.

SCREEN. See "Visual Screening."

SECURE. Either in a dedicated locked room, an area enclosed by a fence with a locked gate, or within 100 feet of a permanent security guard station. For residential use enclosed private garage space is considered to be secure.

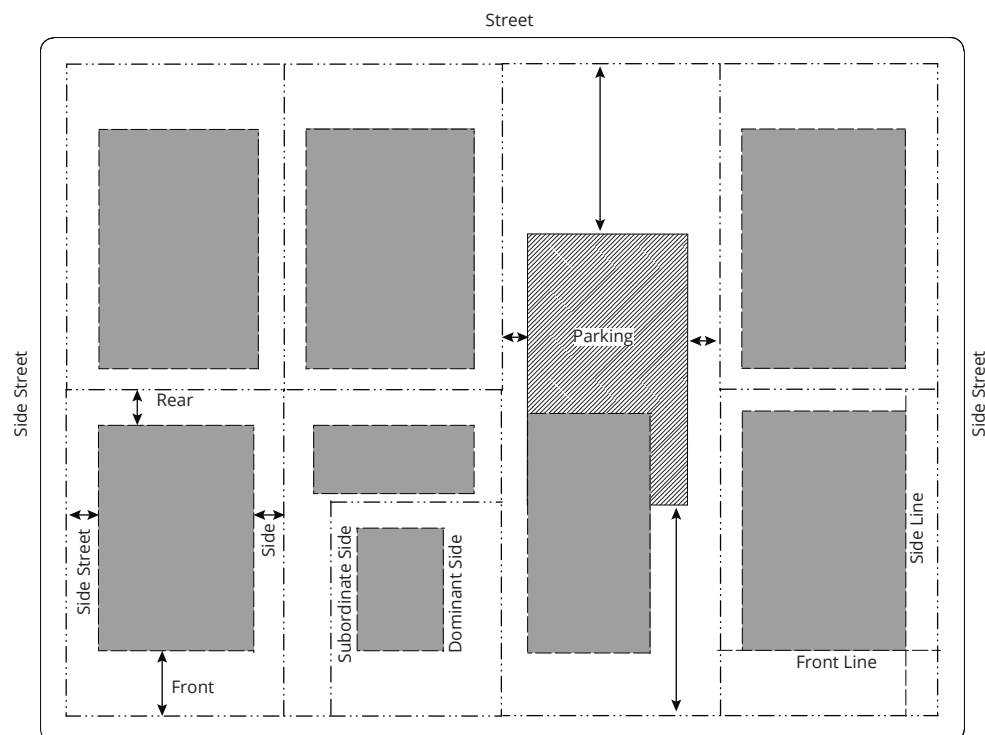
SERVICE EXTENSION. A water or wastewater main or facility that provides new or additional water or wastewater service to a property.

SERVICE ENTRIES. Building access for service providers.

SETBACK. The area measured from the lot line to a building facade or elevation that must be maintained open and unobstructed from finished grade to the sky, with the exception of specifically permitted encroachments. See Figure (8).

1. **DEPTH.** The dimension of a setback measured at a right angle and horizontally from an abutting property line.
2. **DOMINANT SIDE.** When used in reference to a small lot, means the side setback having the larger width.
3. **FRONT.** An area extending the full width of a lot between the front lot line and the front setback line.

4. **LINE.** A line within a lot parallel to and measured from a corresponding lot line, forming the boundary of a setback and governing the placement of structures and uses on the lot.
5. **LINE, PRIMARY.** A line that is a prescribed distance from and parallel to the centerline of an identified creek, the shoreline of Lady Bird Lake, the shoreline of the Colorado River, or the boundary of an identified street, as applicable.
6. **LINE, SECONDARY.** A line that is a prescribed distance from and parallel to a primary setback line.
7. **PARKING.** The mandatory clear distance between a lot line and parking.
8. **PRIMARY.** The area between a primary setback line and the centerline of an identified creek, the shoreline of Lady Bird Lake, the shoreline of the Colorado River, or the boundary of an identified street, as applicable.
9. **REAR.** An area extending the full width of a lot between the rear lot line and the rear setback line, excluding any area located within the street side setback of a corner lot.
10. **SECONDARY.** The area between a primary setback line and a secondary setback line.
11. **SIDE.** The area extending the depth of a lot from the front setback to the rear lot line between the interior side lot line and the interior side setback line.
12. **STREET SIDE.** A setback adjacent to a street and determined on the basis of a street lot line. For a corner lot, a street side setback is the area that extends from the front setback to the rear lot line.
13. **SUBORDINATE SIDE.** When used in reference to a small lot, means the side setback having the smaller width.



SHOPFRONT (FRONTAGE TYPE). See Division 23-4E-1 (Private Frontages).

SHORELINE

1. The line where the edge of the water meets the land at normal pool elevation, or
2. The 492.8 topographic contour line along the shores of Lake Austin, the 681 topographic contour line along the shore of Lake Travis, the 429 topographic contour line along the shore of Lady Bird Lake, or the 554.5 topographic contour line along the shore of Lake Walter E. Long.

SHORELINE ACCESS. Improvements constructed to provide a means of approaching the shoreline that include, but are not limited to stairs, lifts, trams, incline elevators or escalators.

SHORELINE FRONTAGE. The total linear distance of the shoreline.

SHORELINE SETBACK. The distance from the shoreline as prescribed in Section 23-4D-9110 (Lake Austin Overlay Zone).

SIDEWALK. An ADA-compliant paved path of travel intended primarily for pedestrian and bicycle use and often installed between a street and lot frontages.

SITE. A contiguous area intended for development, or the area on which a building has been proposed to be built or has been built. A site does not cross a public street or right-of-way. Generally, a site consists of a legal lot or tract, but may include more than one lot if the requirements of this Title are applied separately to each lot or if the lots are subject to a unified development agreement.

SITE AREA, NET. The gross site area minus street ROW.

SITE PLAN. A plan for a development, other than a subdivision construction plan, submitted by an applicant to demonstrate that the development complies with the requirements of this Title.

SOFT COSTS. The cost of preliminary engineering reports, surveying, geotechnical studies, design, and project management of the construction. This term does not include costs such as financing, interest, fiscal security, permitting, accounting, insurance, governmental fees (including inspection fees), legal services, easements, and all other soft costs associated with the construction of a main or facility.

SOUND EQUIPMENT. A loud speaker, public address system, amplification system, or other sound producing device.

SOUTH EDWARDS AQUIFER RECHARGE ZONE. The portion of the Edwards Aquifer recharge zone that is located south of the Colorado River and north of the Blanco River.

SPECIAL EXCEPTION. An exception from standards or requirements of this Title.

STOOP (FRONTAGE TYPE). See Division 23-4E-1 (Private Frontages).

STORAGE FACILITY. An impoundment or structural tank that receives reclaimed water from a producer.

STOREFRONT. The portion of a shopfront frontage composed of the display window and/ or entrance and its components, including, but not limited to, windows, doors, transoms and sill pane.

STORY. That portion of a building between the upper surface of a floor and the upper surface of the floor or roof next above.

STREET TREE. A tree of any species or size planted in parkways, sidewalk areas, easements, and rights-of-way granted to the City.

STRUCTURAL ALTERATION. A change in the supporting members of a building including load bearing walls, columns, girders, and beams over eight feet long.

STRUCTURE. An improvement attached to real property.

1. **ACCESSORY.** A subordinate structure physically detached from, secondary and incidental to, and commonly associated with a principal building or principal use on the same **site**. Accessory structures normally associated with a residential use property include, but are not limited to garages (unenclosed or enclosed) for the storage of automobiles (including incidental restoration and repair), personal recreational vehicles and other personal property; studios; workshops; greenhouses (noncommercial); enclosed cabanas and pool houses; and storage sheds. Accessory structures normally associated with a non-residential use property include, but are not limited to garages (unenclosed or enclosed) for the storage of automobiles and work related vehicles and equipment (including incidental restoration and repair); storage structures; workshops; and studios. "Accessory structure" does not include an accessory dwelling unit.
2. **EXISTING.** A structure legally erected before the effective date of this Title, or one for which a valid legal building permit has been issued before the effective date of this Title.
3. **NONCONFORMING.** A structure legally constructed which does not conform with current height, setback, coverage or other measurable standards for the zone in which the structure is located because of annexation or amendments to this Title; or a building, structure, or area, including off-street parking or loading areas, that does not comply with currently applicable site development regulations for the zone in which it is located, but did comply with applicable regulations at the time it was constructed.

SUBDIVIDE. To divide land into two or more lots for the purpose of sale or development, as specified under Division 23-5A-1 (General Provisions).

SUITABLE AND SUFFICIENT SERVICE. The ability of the existing water and wastewater system at the property to appropriately serve the property and meet the size, capacity, and emergency demands (fire flow) criteria as defined in the Utilities Criteria Manual.

SUPPLEMENTAL ZONE. An area between the clear zone and the building edge for active public uses such as a plaza, outdoor cafe or patio.

T. T-Definitions

TAP PERMIT. A permit for a connection to the City's water or wastewater system under Division 23-10A-4 (Tap Permits).

TENANT. Any person who occupies a residential unit primarily for living or dwelling purposes under a rental agreement or lease, including those persons who are considered to be tenants under Section 92.001 or 94.001 of the Texas Property Code. Tenant does not include owner of a dwelling unit or manufactured home lot, or members of the owner's immediate family.

TENANT DISPLACEMENT. Any condition that requires a tenant to vacate a multi-family building or manufactured home park due to multi-family redevelopment, where a tenant will not be relocated to another comparably sized unit within the same building or site.

TERRACE (FRONTAGE TYPE). See Division 23-4E-1 (Private Frontages).

TEXAS PLANE COORDINATE. Means the Central Zone of the Texas State Coordinate Systems as defined by the U.S. Coast and Geodetic Survey, dated 1945 and revised in March 1978.

THOROUGHFARE OR STREET. A way for use by vehicular, pedestrian, and bicycle traffic that provides access to lots and open spaces, and that incorporates vehicular lanes and public frontages.

THREATENED OR ENDANGERED SPECIES. A species classified as threatened or endangered by the United States Fish and Wildlife Service.

TOWN LAKE CORRIDOR STUDY. The planning document published by the City in 1985 and formally approved by city council Resolution No. 851031-19.

TRANSIT FACILITY. A site for public transportation purposes including, but not limited to, commuter rail, light rail, rapid bus, bus and associated public transit operations and maintenance facilities. This use includes the provision of commuter or light rail train yards, equipment servicing facilities, and related facilities for operation service, fueling, repair, storage, including activities directly associated with the operation and maintenance of the public transit system and its facilities.

TRANSPORTATION DEMAND MANAGEMENT, OR TDM. As described more fully in Chapter 23-9 (Transportation), design features, incentives, and tools implemented by development projects to reduce vehicle miles traveled (VMT), by helping residents, tenants, employees, and visitors choose sustainable travel options such as transit, walking, ride-sharing, and biking. TDM seeks to reduce auto trips and VMT by increasing travel options, by providing incentives and information to encourage and help individuals modify their travel behavior, or by reducing the physical need to travel through transportation efficient land uses. Strategies include, but are not limited to, enhanced bicycle and pedestrian facilities, pass programs, ridesharing, flex scheduling, and parking management.

TRANSPORTATION DEMAND MANAGEMENT PLAN OR TDM PLAN. A plan approved by the Transportation Director under Section 23-9C-2030 to facilitate reductions in vehicle trips generated by development.

TRANSPORTATION DEMAND MANAGEMENT PROGRAM, OR TDM PROGRAM. The City of Austin's policy requiring developments to incorporate TDM measures in their proposed projects, as established under Division 23-9C-2 (Comprehensive Transportation Review).

TRANSPORTATION DEMAND MANAGEMENT PROGRAM STANDARDS, OR TDM PROGRAM STANDARDS. The details on how a development will meet the requirements of the TDM Program, which is documented in the Transportation Criteria Manual.

TRANSPORTATION PLAN. The Austin Metropolitan Area Transportation Plan, or its successor plan, and other multi-modal transportation plans, referenced in the Imagine Austin Comprehensive Plan, including, but not limited to, the CAMPO Mobility Plan, Sidewalk Master Plan, Bicycle Plan, Urban Trails Plan, and adopted corridor plans.

TRANSPORTATION SYSTEM. An individual component of the overall transportation network designed for the movement of people and goods, including, but limited to, streets, sidewalks, trails, transit, parking, curb space, bike lanes and other multi-modal transportation facilities identified in the transportation plan.

TRANSIT INFRASTRUCTURE. An area or structure used for the loading and unloading passengers from commuter train, light rail, or rapid bus transportation. May include, but is not limited to, parking facilities, lighting, street furniture, ticketing, wayfinding, pedestrian and bicycle infrastructure, or other commercial amenities (i.e. art, commercial amenities, vendors, drinking fountains) to service transit passengers.

TRANSIT STOP. A location where buses, trains and Bus Rapid Transit (BRT) stop to load and unload passengers. A transit stop includes, but is not limited to, the sidewalk, sometimes with a concrete landing and access to the sidewalk or pathway, and sometimes includes, but is not limited to, a shelter or dedicated platform along the sidewalk.

TREE REMOVAL. An act that causes or may be reasonably expected to cause a tree to die, including:

1. Uprooting;
2. Severing the main trunk;
3. Damaging the root system; and
4. Excessive pruning. (See Article 23-3C (Urban Forest Protection and Replenishment)).

U. U-Definitions

UNDERSTORY. The smaller trees and shrubs below the canopy of large trees.

UNIFIED DEVELOPMENT AGREEMENT. An agreement approved at the discretion of the responsible director in order to treat two or more legal lots or tracts as a single site for the purpose of applying specified regulations of the Land Development Code.

UNIT. See "Dwelling Unit".

UNRELATED. Not connected by consanguinity, marriage, domestic partnership or adoption.

UPDATE. Additional information, a plan, or a plat submitted by an applicant in response to comments by a Review Authority.

UPPER FLOOR. The floor in a building containing habitable space that is located above the ground floor.

USE. The conduct of an activity, or the performance of a function, on a parcel or in a structure.

USE EASEMENT. When used in reference to a small lot, means an easement granted by the owner of a small lot with the subordinate side setback to the owner of a small lot with a dominant side setback along the common lot line, and which allows the occupant of the dwelling unit on the lot having the dominant side setback the use, enjoyment, and privacy of the dominant side setback.

USE REQUIRING EVACUATION ASSISTANCE. The following uses require evacuation assistance:

1. Day Care (commercial);

2. Detention Facility;
3. Hospital;
4. Medical Services;
5. Residential Care Facility;
6. School, (public or private); and
7. Senior/Retirement Housing.

UTILITIES. Installations or facilities or means for furnishing to the public, electricity, gas, steam, communications, water, wastewater, reclaimed water, drainage, or flood control, irrespective of whether the facilities or means are underground or above ground. Utilities may be owned and operated by any person, firm, corporation, municipal department or board, appointed by state or municipal regulations. Utility or utilities as used in this Title may also refer to persons, firms, corporations, departments, or boards.

UTILITY LINE. Facility used for the transmission of one or more utility services.

UTILITY STANDARD. A design criterion of the City, American Water Works Association, the Texas Commission of Environmental Quality, or other applicable regulatory entity.

V. V-Definitions

VACATING PLAT. Synonymous with plat vacation, a plat that conforms to the requirements of Local Government Code 212.013, as amended.

VALUE OR VALUATION. When used in reference to a structure, means the estimated cost to replace the structure in kind, based on current replacement costs.

VARIANCE. Grant of relief from the requirements of this Title by the applicable commission or board.

VESTED RIGHTS. A right conferred by state law to develop property under ordinances, regulations, or rules other than those in effect on the date a permit application is submitted. The term includes development rights under Chapter 245 and use rights under Section 43.002 of the Local Government Code, but does not include a right existing under common law. Article 23-2K (Vested Rights) establishes requirements for review of vested rights claims.

VESTED RIGHTS PETITION or PETITION. A petition requesting a determination of development rights under Chapter 245 or use rights under Section 43.002 of the Local Government Code, as specifically defined under Article 23-2K (Vested Rights).

VISIBLE TRANSMITTANCE. A property of glazing materials, which is the ratio of light that passes through the glazing material to the light that is incident on the outside of the glazing.

VISUAL SCREENING. Any landscaping such as walls, landscaped berms, and hedges, used to conceal or reduce the negative visual, hazardous or audio effects of certain land uses or activities from streets or adjacent development. The height of a screen is measured from the highest finished grade abutting the element to be screened.

W. W-Definitions

WAIVER. A relief from development standards granted by the **director**, as allowed by this Title.

WALKABILITY. The condition when an area is highly interconnected to other areas and appeals to pedestrians for recreational walking or for walking to work, transit, errands, shopping, or restaurants.

WALKWAY. A paved way located on one or more parcels, used for pedestrian traffic, and used exclusively by the parcel owner or owners, their guests, and invitees.

WALL PLANE. A vertical surface defined by the facades of buildings.

WASTEWATER. A liquid or water borne waste, including, but not limited to, sewage, industrial waste or other wastes, whether separate or commingled.

WASTEWATER IMPACT FEE. An impact fee for wastewater service.

WASTEWATER INTERCEPTOR. A wastewater main generally considered to be 18-inches in diameter or larger and to which direct connections for retail service to a property are not allowed, unless the [Water Utility Director](#) approves an exception.

WATER. Potable water or reclaimed water as defined by Section 210.3(24) of Title 30 of the Texas Administrative Code, as amended.

WATER AND WASTEWATER IMPACT FEE SERVICE AREA. The water and wastewater impact fee service area designated by separate ordinance.

WATER CONTROL AND IMPROVEMENT DISTRICT. A district created under Chapters 50 and 51 of the Water Code.

WATER DISTRICT. A district or authority, created under Title 4 of the Water Code, including a municipal utility district and a water control and improvement district, that is created under (a) Section 52, Article III, Texas Constitution, or Section 59, Article XVI, Texas Constitution; and (b) Title 4, Texas Water Code.

WATER IMPACT FEE. An impact fee for water supply service.

WATER OR WASTEWATER MAIN. An appurtenance to a water distribution or wastewater collection system. The term includes all components and equipment necessary to make the water distribution or wastewater collection system operable in compliance with the design criteria and standards in the Utilities Criteria Manual, or the equivalent design criteria and standards as determined by the [Water Utility Director](#).

WATER OR WASTEWATER SERVICE LINE. The branch of pipe extending from the water or wastewater main to the approximate location of the property or easement boundary intended to provide direct retail service to a property.

WATER QUALITY CONTROL. A structure, system, or feature that provides water quality benefits by treating stormwater run-off.

WATER RIGHT. A real property right to divert, use, or consume water flowing to, over, or under land.

WATER TRANSMISSION MAIN. A water main generally considered to be 24-inches in diameter or larger and to which direct connections for retail service to a property are not allowed, unless the [Water Utility Director](#) approves an exception.

WATERWAY. A watercourse, drainage way, branch, creek, or stream including, but not limited to, the limits of the 100-year and 25-year floodplains.

WATERSHED

1. **BARTON CREEK.** The land area that drains to Barton Creek, including Little Barton Creek watershed.

2. **SUBURBAN.** All watersheds not otherwise classified as urban, water supply suburban, or water supply rural watersheds, including the Brushy, Buttercup, Carson, Cedar, Cottonmouth, Country Club East, Country Club West, Decker, Dry Creek East, Elm Creek, Elm Creek South, Gilleland, Harris Branch, Lake, Lockwood, Maha, Marble, North Fork Dry, Plum, Rattan, Rinard, South Boggy, South Fork Dry, South Brushy, Walnut, and Wilbarger creek watersheds; the Colorado River watershed downstream of U.S. 183; and those portions of the Onion, Bear, Little Bear, Slaughter, and Williamson creek watersheds not located in the Edwards Aquifer recharge or contributing zones.
3. **URBAN.** The Blunn, Buttermilk, Boggy, East Bouldin, Fort, Harper Branch, Johnson, Little Walnut, Shoal, Tannehill, Waller, and West Bouldin creek watersheds; the north side of the Colorado River watershed from Johnson Creek to U.S. 183; and the south side of the Colorado River watershed from Barton Creek to U.S. 183.
4. **WATER SUPPLY, RURAL WATERSHEDS.** The Lake Travis watershed; the Lake Austin watershed, excluding the Bull Creek watershed and the area to the south of Bull Creek and the east of Lake Austin; and the Bear West, Bee, Bohl's Hollow, Cedar Hollow, Coldwater, Commons Ford, Connors, Cuernavaca, Harrison Hollow, Hog Pen, Honey, Little Bee, Panther Hollow, Running Deer, St. Stephens, Steiner, and Turkey Creek watersheds.
5. **WATER SUPPLY, SUBURBAN WATERSHEDS.** The Bull, Eanes, Dry Creek North, Huck's Slough, Taylor Slough North, Taylor Slough South, and West Bull Creek watersheds; the Lady Bird Lake watershed on the south side of Lady Bird Lake from Barton Creek to Tom Miller Dam; the Lady Bird Lake watershed on the north side of Lady Bird Lake from Johnson Creek to Tom Miller Dam; and the Lake Austin watershed on the east side of Lake Austin from Tom Miller Dam to Bull Creek.

WETLAND. A transitional land between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water, and conforms to the Army Corps of Engineers' definitions.

WHOLESALE CUSTOMER. A customer of the City's water and wastewater utility who purchases service for resale to a retail customer.

WIDTH-TO-HEIGHT RATIO (MEASUREMENT). The ratio of the horizontal size of a space measured perpendicularly to the vertical height of a building.

WILDLAND-URBAN INTERFACE AREA. A geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels

X. X-Definitions

No specialized terms beginning with the letter X are defined at this time.

Y. Y-Definitions

No specialized terms beginning with the letter X are defined at this time.

Z. Z-Definitions

ZERO LOT LINE. A lot line that allows a zero setback.

ZONING JURISDICTION. The areas of the City **designated** for full or limited purposes.

ZONING MAP. The zoning map of the City as adopted by ordinance.

Division 23-13A-2: Land Uses

Contents

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23-13A-2010 Purpose

This division describes and classifies uses in the zoning jurisdiction.

23-13A-2020 Applicability

The definitions in Section 23-13A-2030 (Land Uses) apply to all chapters of the Land Development Code, unless otherwise provided.

23-13A-2030 Land Uses

A. A-Definitions

ACCESSORY DWELLING UNIT

1. **RESIDENTIAL.** A subordinate dwelling unit added to, created within, or detached from a primary residential structure that provides basic requirements for independent living, sleeping, eating, cooking, and sanitation for one or more persons and which is located on the same lot as the primary structure.
2. **COMMERCIAL.** A subordinate dwelling unit added to, created within, or detached from a primary commercial structure that provides basic requirements for independent living, sleeping, eating, cooking, and sanitation for one or more persons and which is located on the same lot as the primary structure.

ACCESSORY USES. Uses subordinate to the primary use on the same site, serving a purpose incidental to the principle use of the main use structure, and which does not change the character of the principal use.

ADULT ENTERTAINMENT. Any commercial activity, whether conducted intermittently or full time, which primarily involves the sale, display, exhibition or viewing of books, magazines, films, videos, photographs, or other materials, distinguished or characterized by an emphasis on matter depicting, describing or relating to human sex acts, or by an emphasis on male or female genitals, buttocks or female breasts. Activities include adult arcades, adult book stores, adult cabarets, adult lounges, adult novelty shops, and adult service business, which exclude minors by virtue of age.

1. **ADULT ARCADE.** A movie arcade, game arcade or other business that primarily offers still or motion pictures or games that emphasize specified sexual activities or specified anatomical areas.

2. **ADULT BOOK STORE.** A business that primarily offers books, magazines, films or videotapes, periodicals, or other printed or pictorial materials that emphasize specified sexual activities or specified anatomical areas; and in which at least 35 percent of the gross floor area is devoted to offering merchandise.
3. **ADULT CABARET.** A business that primarily offers live entertainment that emphasizes specified sexual activities or specified anatomical areas.
4. **ADULT LOUNGE.** An adult cabaret that serves alcoholic beverages.
5. **ADULT MOVIE THEATER.** A business that primarily exhibits motion pictures that emphasize specified sexual activities or specified anatomical areas.
6. **ADULT NOVELTY SHOP.** A business that primarily sells products that emphasize specified sexual activities or specified anatomical areas, and which at least 35 percent of the gross floor area is devoted to the sale of those products.
7. **ADULT ORIENTED BUSINESS.** An adult arcade, adult bookstore, adult cabaret, adult lounge, adult novelty shop, adult service business, or adult theater.
8. **ADULT SERVICE BUSINESS.** An adult encounter parlor, adult retreat, nude modeling studio, or a commercial enterprise that holds itself out to be primarily in the business of offering a service that is distinguished or characterized by an emphasis on depicting, describing, or relating to specified sexual activities or specified anatomical area.

AGRICULTURAL INDUSTRY. The use of a site for temporary keeping of livestock for slaughter, market, or shipping. This use includes stockyards, animal sales, and auction yards.

AGRICULTURAL SUPPORT. The use of a site for supporting agricultural purposes including:

1. Living accommodations by agricultural employees or their families;
2. On-site sale of feed, grain, fertilizers, pesticides, and similar goods;
3. The provision of agricultural services with incidental storage of goods off-site; or
4. Hay, feed, and grain stores and tree service firms.

ALCOHOL SALES. The retail sale of alcoholic beverages for off-premises consumption.

ALTERNATIVE FINANCIAL SERVICES. The use of a site for a check cashing business, payday advance or loan business, money transfer business, motor vehicle title loan business, or a credit access business as defined in this section.

1. This use excludes:
 - a. A state or federally chartered bank, savings and loan association or credit union, or a pawnshop, and
 - b. A convenience store, supermarket, or other retail establishment where consumer retail sales constitute at least 75 percent of the total gross revenue generated on site.

2. A check cashing business is an establishment that provides one or more of the following:
 - a. An amount of money that is equal to the face of a check or the amount specified in a written authorization for an electronic transfer of money, less any fee charged for the transaction;
 - b. An agreement not to cash a check or execute an electronic transfer of money for a specified period of time; or
 - c. The cashing of checks, warrants, drafts, money orders, or other commercial paper for compensation by any other person or entity for a fee.
3. A payday advance or loan business is an establishment that makes small consumer loans of \$2,500 or less, usually backed by postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term or until a customer's next payday and then cashed unless the customer repays the loan to reclaim the check or debit. Establishments may charge a flat fee or other service charge or a fee or interest rate based on the size of the loan amount.
4. A motor title loan business is an establishment that makes small consumer loans of \$2,500 or less that leverage the equity value of a car or other vehicle as collateral where the title to the vehicle is owned free and clear by the loan applicant and any existing liens on the vehicle cancel the application. Failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the vehicle.
5. A credit access business has the same meaning as defined in Section 393.601 of the Texas Finance Code.

ANIMAL PRODUCTION. The use of a site for the raising of animals or production of animal products including, but not limited to, eggs and dairy products, on an agricultural or commercial basis. This use includes, but is not limited to, grazing, ranching, dairy farming, and poultry farming, but (excludes domestic fowl not used for production under Title 3 (Animal Regulation)).

ANIMAL SERVICE/BOARDING

1. **LEVEL 1.** The use of a site for the provision of veterinary, grooming, or indoor boarding services, or the retail sale of small animals customarily used as household pets. This use includes, but is not limited to, adoption centers, pet stores, small animal clinics, and pet grooming shops, but excludes outside boarding or uses for livestock and large animals.
2. **LEVEL 2.** The use of a site for the provision of veterinary services, grooming, indoor boarding, and hospitals for animals. This use includes all animal service/boarding, level 1 uses, plus veterinary, grooming, boarding, and hospital services for livestock and large animals.
3. **LEVEL 3.** The use of a site for the boarding and care of large and small animals. This use includes all animal service/boarding level 1 and level 2 uses, plus outdoor boarding kennels, pet motels, and dog training centers.

AUTOMOBILE SALES, RENTAL, AND STORAGE. The use of a site for the permanent sale, temporary rental, or short to long-term storage of automobiles, noncommercial trucks, motorcycles, including, but not limited to, incidental maintenance and servicing. These include, but is not limited to, new and used automobile and motorcycle dealerships and car rental centers.

AUTOMOBILE REPAIR. The use of a site for the repair of automobiles, noncommercial trucks, motorcycles, motor-homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. This use includes, but is not limited to, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, body and fender shops, and similar repair and service activities, but excludes dismantling or salvage.

B. B-Definitions

BAR/NIGHTCLUB. An establishment where alcoholic beverages are offered for sale for onsite consumption as its principal function, such as a tavern, bar, cocktail lounge, and similar use, which may include food.

1. **LEVEL 1.** A bar/nightclub that is conducted entirely indoors, without a late hours permit.
2. **LEVEL 2.** A bar/nightclub that may have outside seating or that operates with a Texas Alcohol Beverage Commission late hours permit.

BED AND BREAKFAST. The use of a residential structure to provide rooms for temporary lodging for overnight guests on a paying basis.

BUSINESS AND FINANCIAL/PROFESSIONAL SERVICES. An establishment that provides business and financial services including but not limited to banks, ATMs, computer-related services (rental, repair); office equipment sales and service, copying, land mailing and mail box services (not operated by the USPS). This use excludes alternative financial services.

C. C-Definitions

CEMETERY. Land that is dedicated for cemetery purposes for the burial of the dead, including, but not limited to, columbariums, crematoriums, mausoleums, and mortuaries.

COMMERCIAL BLOOD PLASMA CENTER. Facilities for the donation or sale by individual donors of blood plasma and other blood products, with the exception of whole blood.

COMMERCIAL FOOD PREPARATION. The use of a site for the production and storage of prepared food for wholesale distribution in a structure with not more than 5,000 square feet of gross floor area. The use includes wholesale bakeries, commercial kitchens, and specialty food processing or packaging shops, but excludes the on-site slaughter of animals and the commercial production of ice.

COMMERCIAL SERVICES AND REPAIR. A business engaged in delivery of services and repairing and servicing equipment and materials, rather than the sale of products, but which do not involve the manufacturing, assembling, packaging, or process of merchandise and excludes outside storage of materials. Examples include but are not limited to contractor/subcontractor offices, carpenter's shops, electrical repair shops, janitorial service, landscape maintenance, window cleaning, exterminators, plumbers, bulk laundry and cleaning plants, linen supply services, appliance repair shops, watch or jewelry repair shops, and musical instrument repair shops. Excludes business and financial/professional services; personal services; automobile repair, heavy equipment sales, storage, rental, or repair.

1. **WITH INCIDENTAL OUTSIDE STORAGE.** Commercial services establishments that includes the storage of materials or equipment outside, such as service contractor's storage yard, equipment (non-automobile) storage yard, or utility storage yard.

COMMERCIAL VEHICLE STORAGE AND DISPATCH. The use of a site for long- or short-term staging, storage, and dispatch of non-motorized or motorized vehicles, including parking, servicing, and storage of vehicles towed from private parking areas and impound yards, but excludes dismantling or salvage of these vehicles. Includes pedicab and taxicab storage and dispatch.

COMMUNICATIONS. A site for the transmission, transfer, or distribution of telephone, fiber, DSL, and other communication service and related activities.

COMMUNITY AGRICULTURE. A site for growing or harvesting food crops or ornamental crops on an agricultural basis, by an individual or group of individuals for personal or group use, consumption, donation, to be sold for profit, or may provide agricultural education activities. Agricultural education activities include, but are not limited to, volunteer programs, farm tours, youth programs and farming classes.

COMMUNITY EVENTS. A use described in Local Government Code Chapter 334 as permitted for an "approved venue project", except for a hotel, zoological park, museum, spectator sport or entertainment, or aquarium. The use includes the sale of alcoholic beverages.

CONVENTION CENTER. A space or facility owned or managed by the City for conventions, meetings, exhibitions, shows, gatherings, presentations, or celebrations, including related incidental facilities for office and administrative use, food and beverage preparation and service, and on-site and off-site parking facilities.

COOPERATIVE HOUSING. A residential project of three or more units in which an undivided interest in land is coupled with the exclusive right of occupancy of any unit located on the land, whether the right is contained in the form of a written or oral agreement, when the right does not appear on the face of the deed. Does not include group residential.

COTTAGE COURT. A series of small detached structures (cottages), each containing a single unit. The cottages are arranged to define a shared courtyard, typically perpendicular to the street. The shared courtyard takes the place of a private yard.

D. D-Definitions

DETENTION FACILITY. A facility that provides housing and care for legally confined individuals by a public agency.

DAY CARE. The provision of non-medical care and supervision of children or adults for periods of less than 24 hours. This use includes the following types of facilities.

1. **SMALL < 7.** The use of a site for the provision of daytime care for six persons or less. This use includes nursery schools, preschools, day care centers for children or adults, and similar uses, and excludes public and private primary or secondary schools.
2. **LARGE ≥ 7 AND ≤ 20.** The use of a site for the provision of daytime care for more than 6 but not more than 20 persons. This use includes nursery schools, preschools, day care centers for children or adults, and similar uses, and excludes public and private primary or secondary schools.
3. **COMMERCIAL.** The use of a site for the provision of daytime care for more than 20 persons. This use includes nursery schools, preschools, day care centers for children or adults, and similar uses, and excludes public and private schools.

DRIVE THROUGH, RETAIL, OR SERVICE FACILITY. The component of a retail or service business establishment that caters exclusively to customers while in their vehicles. Examples may include, but are not limited to: banks, pharmacies, post offices, liquor stores. This excludes car washes, and drive through restaurants.

DUPLEX. A residential building containing two attached dwelling units on a single lot.

E. E-Definitions

EMERGENCY SHELTER. Housing with minimal supportive services limited to occupancy of six months or less.

F. F-Definitions

FOOD SALES. The retail sales of food, beverages, and household goods, where a regular or substantial portion is for off-site preparation and consumption. Typical uses include grocery stores, delicatessens, health food stores, meat markets, candy shops, and produce markets. It may include incidental sales of prepared food for take-out consumption, such as an onsite bakery associated with a grocery store. Excludes incidental sale of alcohol for on or off-site consumption.

FUNERAL/MORTUARY HOME. The use of a site for preparing the deceased for burial, or arranging or managing funerals. This use includes funeral homes and mortuaries and incidental sales of product associated with burial or cremation.

G. G-Definitions

GAS STATION. A facility offering full-service or self-service gas pumps for vehicles, in addition to water, oil, window washing, or washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment. Includes incidental sale of petroleum or automobile related products. This excludes automobile repair.

GENERAL RETAIL. The sale or rental of commonly used goods and merchandise for personal or household use. Examples include, but are not limited to, apparel, art, cosmetics, department stores, drugstores, furniture stores, home appliances, musical instruments, office supplies, toys and games, and variety stores. This excludes the sale of automotive parts, food sales, onsite production, or outside storage of goods of materials.

1. **WITH ONSITE PRODUCTION.** A site used for the production and sale of art or other handcrafted goods.
2. **WITH OUTSIDE STORAGE.** A site used for the outside storage and display of merchandise such as a plant nursery.

GOVERNMENT. A site for provision of offices or administrative, clerical, or public contact services, together with incidental storage and maintenance of necessary vehicles. This use includes federal, state, county, and City offices as well as post offices, bulk mail processing, and sorting centers operated by the United States Postal Service.

GROUP RESIDENTIAL. The use of a site for occupancy by a group who are not a family, on a weekly or longer basis. This includes, but is not limited to, fraternity and sorority houses, dormitories, residence halls, and boarding houses.

H. H-Definitions

HEAVY EQUIPMENT SALES

1. **REPAIR.** Facilities for the repair of trucks of one ton or greater capacity, tractors, construction equipment, agricultural implements, or similar heavy equipment. This use includes truck repair garages, tractor and farm implement repair services, and machine shops, but excludes dismantling and salvage activity.
2. **SALES, RENTAL, AND STORAGE.** The use of a site for the sale or rental of trucks of one ton or greater capacity, tractors, construction equipment, agricultural implements, mobile homes, or similar heavy equipment, including incidental storage, maintenance, and servicing. This use includes truck dealerships, construction equipment dealerships, and mobile home sales establishments.

HELICOPTER AND OTHER NON-FIXED WING AIRCRAFT FACILITIES. A heli-facility or heliport, as defined in Chapter 13-1, Article 4 (Heliports and Helicopter Operations); and a landing field for hot air balloons or non-fixed-wing aircraft.

HOME OCCUPATION. A commercial use that is accessory to a residential use.

HOSPITAL. A site for the provision of medical, psychiatric, or surgical services on an in-patient and out-patient basis, and includes ancillary facilities for out-patient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, and visitors.

HOTEL/MOTEL. The use of a site for the provision of rooms for temporary lodging. This use includes hotels, motels, and hostels.

I. I-Definitions

INDOOR CROP PRODUCTION. A site for the raising and harvesting indoors of tree crops, row crops, or field crops on an agricultural or commercial basis, including packing and processing.

J. J-Definitions

No specialized land uses beginning with the letter J are defined at this time.

K. K-Definitions

No specialized land uses beginning with the letter K are defined at this time.

L. L-Definitions

LIBRARY, MUSEUM, OR PUBLIC ART GALLERY. Public or quasi-public facilities, examples of which include: aquariums, arboretums, art galleries and exhibitions, botanical gardens, historic sites and exhibits, libraries, and museums. May also include, but is not limited to, accessory retail uses such as gift/book shops, restaurant, etc.

LIVE/WORK. An integrated housing unit and working space occupied and used by a single household in a structure that has been designed or structurally modified to accommodate joint residential occupancy and work activity, and which includes complete kitchen space and sanitary facilities in compliance with the Building Code; and working space reserved for and regularly used by one or more occupants of the unit.

M. M-Definitions

MARINA. The wet or dry storage or docking of seaworthy watercraft, including ramps and hoists for boats, for profit; or the provision of docks, wharves, piers, floats, or similar structures for the anchoring, mooring, housing, or storing of more than three watercrafts.

MANUFACTURED HOME. The use of a site for occupancy of manufactured homes.

MANUFACTURING AND STORAGE. The use of a site for manufacturing, production, processing, warehousing, or distribution of various products.

1. LIGHT

- a. On-site production of goods using hand tools, domestic mechanical equipment not exceeding five horsepower, or a single kiln not exceeding 12 kilowatts, and the incidental sale of those goods;
- b. Wholesaling or warehousing services within an enclosed structure; or
- c. Wholesale distributors, storage warehouses, and moving or storage firms.
- d. This use excludes general manufacturing and storage.

2. GENERAL

- a. Processing and manufacturing from previously prepared materials or finished products or parts; including processing, fabrication, assembly/disassembly, treatment, and packaging of the products, remanufacturing and repurposing of recycled products (excluding heavy metals or hazardous materials), and incidental storage, sales, and distribution of the products.
- b. Includes associated on-site product development and testing of products and technology (non-hazardous).
- c. This use excludes restricted manufacturing and storage.

3. RESTRICTED

- a. Processing and manufacturing of materials or products predominately from extracted, raw, or recycled materials, or involving hazardous materials including processing, fabrication, assembly/disassembly, treatment, remanufacturing of recycled products (such as batteries, heavy metals, electronics);

- b. Storage or manufacturing processes that involve flammable or explosive materials;
- c. Storage or manufacturing processes that involve hazardous or commonly recognized offensive conditions, including poultry processing; or
- d. Open-air storage, distribution, or handling of materials or equipment, including monument or stone yards, grain elevators, and open storage yards.
- e. Brewery/distillery/winery which manufacture more than 15,000 barrels of beverage (all beverage types combined) annually. Breweries may also serve beverages on-site, and sell beverages for off-site consumption in keeping with the regulations of the Alcohol Beverage Control (ABC) and Bureau of Alcohol, Tobacco, and Firearms (ATF).

MEDICAL SERVICES. A facility other than a hospital where medical, dental, mental health, surgical, or other personal health care services are provided on an outpatient basis and includes, but is not limited to, chiropractors, medical doctors, psychologists, psychiatrists, counseling, or guidance services. These facilities may also include, but are not limited to, incidental medical laboratories and pharmacies that may prepare and sell prescription drugs and also sell non-prescription drugs, medical supplies, and other health products as an accessory use.

MEETING FACILITY (PUBLIC OR PRIVATE). An indoor facility for public (non-profit) or private meetings, including: community centers; clubhouses; civil and private auditoriums; and union halls, meeting halls for clubs and other membership organizations, etc. Also includes functionally related internal facilities such as kitchens, multi-purpose rooms, and storage. Excludes conference and meeting rooms accessory and incidental to another primary use, and which are typically used only by on-site employees and clients, and occupy less floor area on the site than other offices they support. Excludes recreation (indoor; outdoor, formal; outdoor, informal; outdoor, natural) and performance venue/theatre (indoor, outdoor). Related on-site facilities such as day care centers and schools are separately defined, and separately regulated.

MICRO-BREWERY/MICRO-DISTILLERY/WINERY. A small-scale facility that produces 15,000 barrels of beer, wine, or distilled spirits per year or less that may include a taproom in which guests/customers may sample or purchase the product. Its products are primarily intended for local or regional consumption. Sale of beverages for off-site consumption is also permitted in keeping with the regulations of the Alcohol Beverage Control (ABC) and Bureau of Alcohol, Tobacco, and Firearms (ATF). May include the distribution of beverages for consumption at other sites.

MINING AND RESOURCE EXTRACTION. The use of a site for on-site extraction of surface or subsurface mineral products or natural resources. This use includes quarries, borrow pits, sand or gravel operations, oil or gas extraction, and mining operations.

MOBILE FOOD SALES. One of two types of mobile food operations:

1. A restricted unit that offers only prepackaged food in individual servings; beverages that are not potentially hazardous and are dispensed from covered urns or other protected vessels; and packaged frozen foods. Preparation, assembly, or cooking of foods is not allowed. A foot peddler permit is a restricted unit is limited to one portable ice chest, cooler, case or unit per permit, capable of being carried by one person; or
2. An unrestricted unit that may serve food as allowed in Subsection (1), and may cook, prepare, and assemble a full menu of food items;
 - a. An unrestricted unit must be secured and completely enclosed, except as provided in Subsection (2)(b) below; and
 - b. Foods such as hot dogs, coffee, or shaved ice, or food with earlier approval from the health authority, may be served from vehicles with three sides and a cover.

MOBILE RETAIL SALES. A retail establishment that sells non-food items and services to an end user consumer from a movable vehicle or trailer that routinely changes locations.

MULTI-FAMILY. A residential building containing three or more dwelling units within a single building, with one or more multi-unit buildings per site, and includes, but not limited to, triplex, quadplex, bungalow court apartments, and multi-unit apartment complexes.

N. N-Definitions

No specialized land uses beginning with the letter N are defined at this time.

O. O-Definitions

OFFICE, GENERAL (NON-MEDICAL). Executive, management, professional, or administrative offices including but not limited to accounting services, real estate offices, utility company offices, as well as professional or consulting service offices such as law, architecture, engineering, and accounting. This use excludes commercial services and repair or business and financial/professional services.

P. P-Definitions

PARKING FACILITY. Facilities for the parking of motor vehicles on a temporary basis within a privately owned off-street parking facility. This use includes commercial parking lots and garages.

PAWN SHOP. The use of a site for the lending of money on the security of property pledged in the keeping of the pawnbroker, and the incidental sale of the property.

PERFORMANCE VENUE/THEATER. An establishment used for the presentation of live performances, plays, live music, motion pictures, or other dramatic performances, typically for a fee or admission charge for participants or spectators.

1. **INDOOR.** An indoor facility, including, but not limited to, performance venues, music venues, theaters, movie theaters, and performing arts centers.
2. **OUTDOOR.** An outdoor facility where the stage or entertainment is located outdoors, including, but not limited to, amphitheaters, outdoor stages, and permanent outdoor movie theaters.

PERSONAL SERVICES. An establishment that provides non-medical services to individual as a primary use. Examples of these use include: barber shops and beauty salons; nail salons, clothing rental; dry cleaning pick up stores with limited equipment; locksmiths; massage; shoe repair shops; and tailors. These uses may also include, but is not limited to, accessory retail sales of products related to the services provided.

1. **RESTRICTED.** Personal services that may not be compatible with surrounding areas and which may need to be dispersed to minimize their adverse effects. Examples of these uses include, but are not limited to:
 - a. Bail bond services (regulated by Texas Occupations Code Chapter 1704);
 - b. Fortune tellers, psychics, and palm and card readers;
 - c. Spas and hot tubs for hourly rental;
 - d. Tattoo and body piercing services;
 - e. Cigarette/e-cigarettes/vapor shops; and
 - f. Hookah lounges.

PERSONAL STORAGE. A storage services site primarily for personal effects and household goods within enclosed storage areas having individual access. This use includes mini-warehouses, and excludes workshops, hobby shops, manufacturing, and commercial activity.

PLANT PRODUCTION. The use of a site for the raising and harvesting of tree crops, row crops, field crops, or flora cultural specialties, including flowers, shrubs, and other landscaping on an agricultural or commercial basis, intended to be sold for profit. This use includes wholesale plant nurseries and greenhouses and includes packing and processing.

PUBLIC SAFETY FACILITY. The use of a site for provision of public safety and emergency services, and includes police and fire protection services and emergency medical and ambulance services.

Q. Q-Definitions

No specialized land uses beginning with the letter Q are defined at this time.

R. R-Definitions

RECREATION. A site used for sports, recreation, or amusement for participants or spectators.

1. **INDOOR.** A recreational use conducted within an enclosed building. The use includes, but is not limited to, athletic clubs, recreation centers, gymnasiums, bowling alleys, indoor shooting range, indoor batting cages, ice and roller-skating rinks.
2. **OUTDOOR, FORMAL.** A recreational use that involves supervised, league, tournament, membership, or concessions activities or performances. Includes but is not limited to swimming pools, tennis centers, sports complexes, driving ranges, batting cages, skate parks, golf courses, shooting ranges, and paintball courses.
3. **OUTDOOR, INFORMAL.** A recreational use that involves informal play in natural or man-made landscapes. Includes but is not limited to playscapes, nature play areas, trails, trailheads, sport courts, pavilions, and splash pads.
4. **OUTDOOR, NATURAL.** A recreational use that involves enjoyment of nature and nature education and does not negatively affect the biological sensitivity of the land or wildlife that live within it.

RECREATIONAL AND SPORTS VEHICLE SALES, RENTAL, AND STORAGE. The use of a site for the permanent sale, temporary rental, or short to long-term storage of boats, motor-homes, recreational and sport vehicles, including incidental maintenance and servicing.

RECREATIONAL VEHICLE PARK. The use of a site for provision of camping or parking areas and incidental services for travelers in recreational vehicles or tents.

RECYCLING CENTER

1. **COLLECTION AND TRANSFER.** A site, holding all required city, county, state, and federal authorizations which receives recyclable materials for the purpose of collecting, and sorting before transferring to a processing facility. Recyclable materials include non-hazardous materials that have been recovered or diverted from disposal in a landfill for the purpose of reuse, recycling, or reclamation and a substantial portion of which is used in the manufacture of products, which may other wise use raw or virgin materials.
2. **DROP-OFF AND REUSE.** A use is a facility used for the collection and transfer, but not the actual processing, of recyclable materials. Recyclable materials include glass, paper, plastic, cans, or other source-separated, nonputrescible materials, and excludes motor oil, chemicals, household appliances, tires, automobiles, automobile parts, and putrescible materials.
3. **STORAGE AND PROCESSING.** A site, holding all required city, county, state, and federal authorizations, for the storage, for sorting, compacting, flattening, baling, shredding, grinding, or crushing of recyclable material. Processing can also include the processing of collected recyclable materials into aggregate, building materials and other products. Recyclable materials include non-hazardous materials that have been recovered or diverted from disposal in municipal solid waste facilities for the purpose of reuse, recycling, or reclamation and a substantial portion of which is consistently used in the manufacture of products, which may other wise use raw or virgin materials. Processing may also involve composting and the decomposing of organic matter, including leaves, brush, wood waste and other organic waste in a controlled environment for reuse.

RELIGIOUS ASSEMBLY FACILITY. An institution which people regularly attend to participate in or hold religious services, meetings and other activities, including but not limited to churches, mosques, synagogues.

RESEARCH AND DEVELOPMENT. The use of a site for industrial or scientific research, including electronics research laboratories, space research or development firms, biological technology, and pharmaceutical research labs, and offices. Additionally, the use of a site can include developing, testing, prototype assembly. Does not include on-site manufacturing, storage, or distribution of products.

1. **RESTRICTED.** The use of a site for one or more of the following:

- a. Scientific, industrial, or electronic technology development, or testing involving storage or use of hazardous materials;
- b. The assembly of products related to research services and used by the owners of the research establishment or affiliated entities in the delivery of services performed by the owner or affiliated entities. This use excludes the mass production of products for general sale to customers; and
- c. Enclosed or screened storage of materials or equipment related to research services, and excludes bulk warehousing or permanent storage of hazardous or toxic substances.

RESIDENTIAL CARE FACILITY. A residential facility that offer varying levels of care and supervision, such as basic services and community spaces, in-patient services for persons requiring regular medical attention so that residents can receive medical care without leaving the facility, and facilities offering 24-hour supervision, housing, personal and health care, as allowed by the Department of Social Services, designed to respond to the daily individual needs of the residents. The use includes include assisted living facilities, congregate housing, and life care facilities. The use excludes group residential and senior/retirement housing..

RESIDENTIAL CONVENIENCE SERVICE. A commercial use that is operated as an integral part of the principal use, is not identifiable from outside the site, and is intended to be patronized solely by the residents of the principal use. Examples include, but are not limited to: food sales for residents of a manufactured home park, sales of items related to maintenance and operations of manufactured homes within the park, child care services provided to onsite residents and employees only.

RESTAURANT. A retail business selling food or beverages for on- premises consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on- or off-premises consumption (such as juice bars,

sandwich shops, coffee shops) and establishments where customers are served food at their tables for on premise consumption that may also provide food for take-out.

1. **WITHOUT ALCOHOL SALES.** A restaurant that excludes sale of alcohol for on or off-site consumption. This classification does not include drive-through restaurants.
2. **WITH ALCOHOL SALES.** A restaurant that may include sale of alcohol for on-site consumption as incidental use where minors are allowed on the premises, including a restaurant with a microbrewery as an accessory use where the beer it produces is sold in draft form exclusively at its own premises. This classification does not include drive-through restaurants.
3. **DRIVE THROUGH.** The component of a restaurant establishment that caters to customers while in their vehicles.
4. **LATE NIGHT OPERATION.** A restaurant that operates with a Late Hours Permit from the Texas Alcoholic Beverage Commission.

S. S-Definitions

SALVAGE/JUNK YARD. The use of a site for the storage, sale, dismantling or other processing of used or waste materials that are not intended for re-use in their original forms. This use includes automotive wrecking yards, junk yards, and salvage yards.

SCHOOL

1. **BUSINESS OR TRADE SCHOOL.** The use of a site for education or training in business, commerce, language, or other similar activity or occupational pursuit that is not otherwise described as a home occupation, college, university, or public or private educational facility.
2. **COLLEGE OR UNIVERSITY.** The use of a site for a public or private degree-granting institution of higher education (college or university) with a course of study in accordance with the Texas Education Code.
3. **PRIVATE, PRIMARY.** The use of a site for either a private or parochial elementary school offering equivalent instruction to that required in the public schools of the state.
4. **PRIVATE, SECONDARY.** The use of a site for either a private or parochial junior high or senior high school offering equivalent instruction to that required in the public schools of the state.
5. **PUBLIC, PRIMARY.** The use of a site for a public school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools of the state. The term includes an open enrollment charter school as defined under the Texas Education Code.
6. **PUBLIC, SECONDARY.** The use of a site for a public school offering instruction at the junior and senior high school levels in the branches of learning and study required to be taught in the public schools of the state. The term includes an open enrollment charter school as defined under the Texas Education Code.

SENIOR/RETIREMENT HOUSING. Independent living centers and multi-family residential projects reserved for senior citizens, persons with physical disabilities, or

both, where common facilities may be provided (for example, recreation areas), but where each dwelling unit has individual living, sleeping, bathing, and kitchen facilities.

1. **≤ 12.** Senior/Retirement housing with 12 or fewer dwelling units.
2. **> 12.** Senior/Retirement housing with more than 12 dwelling units.

SHORT-TERM RENTAL. The use of a residential dwelling unit or accessory building, other than a unit or building associated with a group residential use, on a temporary or transient basis. The use does not include an extension for fewer than 30 consecutive days of a previously existing rental agreement of 30 consecutive days or more. The use excludes a rental between parties to the sale of that residential dwelling unit.

1. **TYPE 1.** Rented for periods of less than 30 consecutive days and is owner-occupied or is associated with an owner-occupied principal residential unit.
2. **TYPE 2.** Rented for periods of fewer than 30 consecutive days, is not part of a multi-family residential use, and is not owner-occupied and is not associated with an owner-occupied principal residential unit
3. **TYPE 3.** Rented for periods of fewer than 30 consecutive days and is part of a multi-family residential use.

SINGLE-FAMILY. A residential building containing one dwelling unit, other than a manufactured home or an accessory dwelling unit.

SINGLE-FAMILY ATTACHED. A residential building containing two dwelling units that are attached, where each unit is located on a separate lot.

SPECIAL USE. The use that requires particular cultural, historical, or character specific regulation.

SPECTATOR SPORT OR ENTERTAINMENT. The use of a site for regularly recurring activities of a spectator nature that draws people to a specific event or show within a permanent indoor or outdoor structure. Examples include stadiums, sports arenas, coliseums, race tracks (auto, horse, dog, etc.). Also includes amusement parks and water parks. May also include accessory uses such as alcohol sales, concessions, and onsite maintenance facilities.

STABLES. Facilities for boarding, breeding or raising of horses not owned by the occupants of the premises, or storage of horses used to pull carriages, or the rental of horses for riding. This use includes boarding stables or public stables.

STUDIO: ART, DANCE, MARTIAL ARTS, MUSIC. Small-scale facilities focused on the instruction of students of any age group. Also includes production studios for individual musicians, painters, sculptors, photographers, and other artists. Excludes Recreation- Indoor. Allows individual artist workshops powered by hand tools, domestic mechanical equipment not exceeding five horsepower, or single kiln not exceeding 12 kilowatts. Examples of these facilities include, but are not limited to, individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; and gymnastics instruction, aerobics, and gymnastics studios with no other fitness facilities or equipment.

T. T-Definitions

TELECOMMUNICATIONS. A structure built exclusively to support one or more antennae for receiving or transmitting electronic data or telephone communications.

TEMPORARY USES. Short-term activities that are not allowed on a permanent basis but because of their temporary non-permanent intermittent or seasonal nature are acceptable.

TOWNHOUSE. A residential building constructed in a group of three or more dwelling units attached by a common wall or walls, in which a single unit extends from the foundation to roof, with open space on at least two sides of each unit.

TRANSIT TERMINAL. A public or privately-owned facility that provides the general public the opportunity to board public or private transit ranging from taxi cabs, private car services, and shuttles to buses and trains.

TRANSITIONAL AND SUPPORTIVE HOUSING. The use of a site for the supervision or detention of residents who are making the transition from institutional to community living within six months. This use includes pre-parole detention facilities and halfway houses for juvenile and adult offenders, transitioning out of an institution, and homeless individuals or families transitioning to permanent housing. Includes Supportive Housing that has no limit on the length of stay, is linked to onsite or offsite services, and is occupied by persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, and may include, but is not limited to, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

TRANSPORTATION FACILITY. A site for any public or private transportation purposes including aviation, railroad, bus, or public transit facilities. This use includes the provision of railroad yards, equipment servicing facilities, or terminal facilities, or landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, or rental of aircraft, including activities directly associated with the operation and maintenance of airport facilities. Additionally, the use of a site can include a facility for the loading, unloading, or interchange of passengers, baggage, or incidental freight or package express between modes of transportation, and includes bus terminals, railroad stations, airport terminals, and public transit facilities.

U. U-Definitions

UTILITIES

1. **LOCAL.** A site for the provision of services that are necessary to support the development in the area and involve only minor structures including, but not limited to, lines and poles.
2. **MAJOR.** A site for the provision of generating plants, electrical switching facilities or primary substations, landfill trash or recycling, or compost collection or disposal facilities, water or wastewater treatment plants, water or reclaimed water transmission mains, wastewater interceptors, wastewater lift stations, water reservoirs and tanks, water pump stations, or similar facilities.

V. V-Definitions

No specialized land uses beginning with the letter V are defined at this time.

W. W-Definitions

WORK/LIVE. An integrated working space and housing unit occupied and used for a work activity in a structure that has been designed or structurally modified to accommodate joint residential occupancy and work activity, and which includes complete kitchen space and sanitary facilities in compliance with the Building Code; and working space reserved for and regularly used by one or more occupants of the unit.

X. X-Definitions

No specialized land uses beginning with the letter X are defined at this time.

Y. Y-Definitions

No specialized land uses beginning with the letter Y are defined at this time.

Z. Z-Definitions

No specialized land uses beginning with the letter Z are defined at this time.

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